

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
NATIONAL/COMMERCIAL SERVICES
COMMERCIAL/INDUSTRIAL DIVISION
NCS-390060-6W

DOC # 791545
10/27/2011 10:37AM Deputy: SG
OFFICIAL RECORD
Requested By:
First American NCS Califon
Douglas County - NV
Karen Ellison - Recorder
Page: 1 of 9 Fee: \$22.00
BK-1011 PG-4784 RPTT: 0.00



**RECORDING REQUESTED BY, AND
WHEN RECORDED, RETURN TO:**

Wells Fargo Bank, N.A.
333 Market Street, 17th Floor
MAC #A0119-170/Tom Farber
San Francisco, CA 94105

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

OPEN SPACE EASEMENT AGREEMENT

This Open Space Easement Agreement (this "Easement Agreement") is made and entered into as of the date of its recordation in the Official Records of Douglas County, Nevada (the "Effective Date"), by and between VALLEY VISTA 7, LLC, a Nevada limited liability company ("Grantor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Grantee"). Grantor and Grantee are sometimes individually referred to as "Party" and collectively referred to as the "Parties."

RECITALS

- A. Grantor is the owner of that certain real property located in Douglas County, Nevada that is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Servient Property").
- B. Grantee is the owner of that certain real property located in Douglas County, Nevada that is more particularly described in **Exhibit "B"** attached hereto and incorporated herein by this reference (the "Development Property"). The Development Property is presently subdivided into thirty-six (36) single-family residential building lots, together with areas designed for related subdivision improvements.
- C. In connection with potential future development of the Development Property in the manner described in Recital B, Grantee desires to obtain, for the benefit of the Development Property, certain perpetual, non-exclusive easement rights over the Servient Property for the construction and installation of such improvements as may be required of Grantee by applicable governmental authorities in connection with the development of the Development Property.



D. Grantor is willing to grant to Grantee the above-referenced easement rights over the Servient Property, pursuant to the terms of that certain Settlement Agreement dated July 27, 2011, by and between Grantee, Grantor, and the following affiliates of Grantor: Leo A. Hanly; Brian L. Hanly; Donald I. Hanly; Syncon Homes, a Nevada corporation; Monterra 270, LLC, a Nevada limited liability company; and Hanser Investments, LLC, a Nevada limited liability company.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

AGREEMENT

I. Recitals. The Recitals are true and correct and are incorporated herein.

II. Grant of Easements. Grantor hereby grants and conveys to Grantee over the Servient Property, for the benefit of the Development Property, the following rights: (a) a non-exclusive easement in gross for the construction, installation, use, maintenance, replacement and repair of such open space improvements, utility facilities, landscaping improvements and any other facilities or improvements that may be necessary or useful in connection with the development of the Development Property as a residential subdivision, including without limitation all improvements and facilities required by the development plans for the Development Property and/or the Servient Property approved by Douglas County and/or Indian Hills General Improvement District; and (b) a perpetual, appurtenant, non-exclusive easement over and upon the Servient Property for access as may be needed to enjoy the foregoing rights.

III. Term. The easements granted under Section II above shall automatically expire at such time as any offer of dedication for the Servient Property is accepted by Douglas County and/or Indian Hills General Improvement District (the "Easement Termination Date").

IV. Property Taxes and Assessments. Nothing in this Easement Agreement shall be deemed to create in Grantee an obligation to pay any property taxes or assessments charged against any portion of the Servient Property.

V. Breach Shall Not Permit Termination. No breach of this Easement Agreement shall entitle either Party to cancel, rescind or otherwise terminate this Easement Agreement, but such limitation shall not affect in any manner any other rights or remedies which may be available to such Party at law or in equity.

VI. Grantor's Use. Grantor shall not alter, maintain, replace, remove, modify, or place any item upon any portion of the Servient Property in such a manner as to interfere with Grantee's easement rights hereunder. In the event Grantor causes any damage or



modification to the Servient Property or the facilities and/or improvements thereon as a result of its activities on the Servient Property, Grantor shall promptly repair and restore the Servient Property (and the relevant facilities and/or improvements) to its condition prior to such damage or modification.

VII. No Obligation to Construct. Nothing herein shall obligate Grantor to construct or install any improvements upon any portion of the Servient Property.

VIII. General Provisions.

A. Easement in Gross; Covenants and Equitable Servitudes. The easements granted under this Easement Agreement shall be easements in gross for the benefit of Grantee and its successors and assigns, and are fully assignable by Grantee without the need for any further notice to or consent from Grantor. All provisions of this Agreement shall be binding upon the respective successors and assigns of the Parties and shall, until the Easement Termination Date, be deemed to run with the Servient Property as covenants running with the land or as equitable servitudes, as the case may be.

B. Modification and Waiver. No claim of waiver, modification, consent or acquiescence with respect to any provision of this Easement Agreement shall be made against either Party except on the basis of a written instrument executed by or on behalf of such Party.

C. Construction and Interpretation. Wherever possible, each provision of this Easement Agreement shall be interpreted in such manner as to be valid under applicable law, but, if any provision of this Easement Agreement shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition without invalidating the remainder of such provision or the remaining provisions of this Easement Agreement. This Easement Agreement shall be construed as if both Parties jointly prepared this Easement Agreement and any uncertainty and ambiguity shall not be interpreted against any one Party. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender, and vice versa

D. Paragraph Headings. The headings of the several paragraphs of this Easement Agreement are inserted solely for convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision hereof.

E. Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing or construing this Easement Agreement, or any judgment based on this Easement Agreement, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearing, the prevailing Party shall be entitled to receive from the other Party thereto reimbursement for all attorneys' fees and all costs, including but not limited to service of process, filing fees, court and court



reporter costs, investigative costs, expert witness fees, and the cost of any bonds, whether taxable or not. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

F. Governing Law. This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Nevada, without giving effect to the choice of law principles of said State.

G. Counterparts. This Easement Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original; such counterparts shall together constitute but one agreement.

H. Time of the Essence. Time is of the essence for the performance of all obligations and the satisfaction of all conditions of this Easement Agreement.

I. Entire Agreement. This Easement Agreement contains the entire agreement between the Parties relating to the transactions contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged herein.

J. Additional Actions and Documents. The Parties agree to take such additional actions and execute such additional documents as may be necessary or proper to carry out the transactions contemplated by this Easement Agreement.

L. Limitation of Liability. As used in this Easement Agreement, the term "Grantee" means only the current holder of the easement rights granted herein. Each Grantee is obligated to perform the obligations of Grantee under this Easement Agreement only during the time such Grantee holds such easement rights. Any Grantee who transfers and assigns all of its rights under this Easement Agreement is relieved of all liability with respect to the obligations of Grantee under this Easement Agreement to be performed on or after the date of transfer and assignment.

[signatures follow on next page]



IN WITNESS WHEREOF, the Parties hereto have caused this Easement Agreement to be executed as of the Effective Date.

GRANTOR:

VALLEY VISTA 7, LLC,
a Nevada limited liability company

By: [Signature]
Name: LED A. HANLY SYNCON HOMES, MANAGER
Its: PRESIDENT

GRANTEE:

WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking association

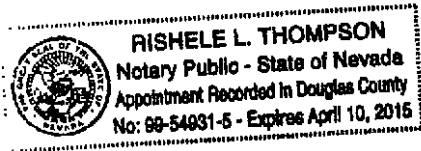
By: [Signature]
Name: JAMES P. GREATHOUSE
Its: VICE PRESIDENT

By: [Signature]
Name: THOMAS FARBER
Its: ASST VICE PRESIDENT

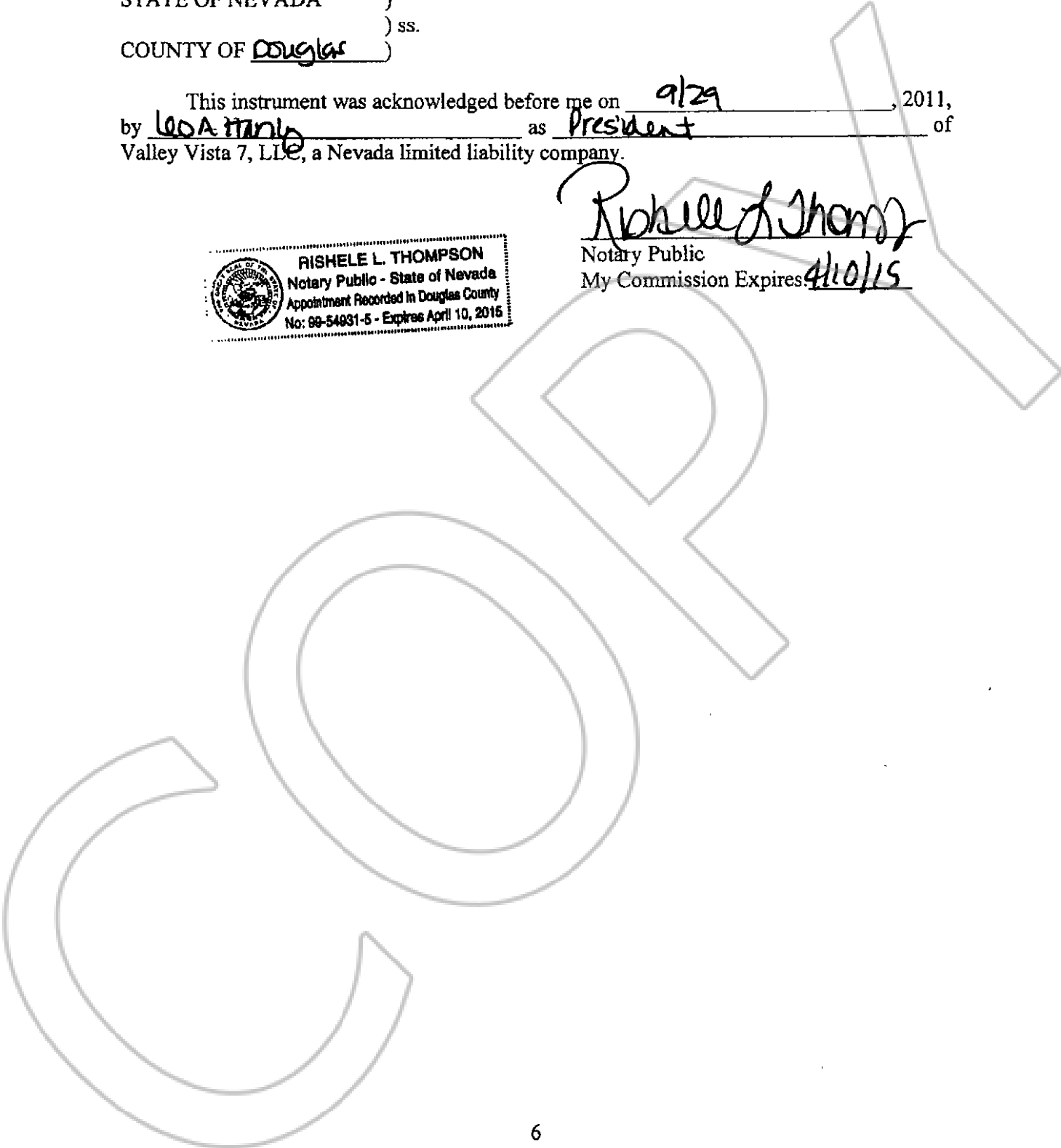


STATE OF NEVADA)
) ss.
COUNTY OF Douglas)

This instrument was acknowledged before me on 9/29, 2011,
by Lea Hanks as President of
Valley Vista 7, LLC, a Nevada limited liability company.



Rishele L. Thompson
Notary Public
My Commission Expires 4/10/15





STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

On OCTOBER 24, 2011, before me, NARIN OUK, a Notary Public, personally appeared JAMES P. GREENHOUSE AND THOMAS P. [unclear] who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

[Signature]
Signature of Notary



(Affix seal here)



Exhibit "A"

Legal Description of the Servient Property

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF DOUGLAS, STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

REMAINDER PARCEL B, AS SHOWN ON THE FINAL MAP #97-1007-7 OF VALLEY VISTA ESTATES, PHASE 6 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY RECORDER, STATE OF NEVADA, ON APRIL 24, 2002, IN BOOK 0402, AT PAGE 7191, AS DOCUMENT NO. 540408, OFFICIAL RECORDS;

EXCEPTING THEREFROM ALL THAT LAND LYING WITHIN THE PERIMETER OF FINAL MAP LDA 97-1007-8 FOR VALLEY VISTA ESTATES, PHASE 7 RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY RECORDER, STATE OF NEVADA, ON OCTOBER 20, 2006 IN BOOK 1006, PAGE 7712 AS DOCUMENT NO. 686969, OFFICIAL RECORDS; AND

FURTHER EXCEPTING THEREFROM THAT PORTION CONVEYED BY THAT CERTAIN DOCUMENT RECORDED MAY 24, 2004 AS DOCUMENT NO. 614008 OF OFFICIAL RECORDS.

APN: 1420-07-201-005



Exhibit "B"

Legal Description of the Development Property

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF DOUGLAS,
STATE OF NEVADA, AND IS DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 36, INCLUSIVE, AS SHOWN ON THE FINAL MAP LDA 97-1007-8
FOR VALLEY VISTA ESTATES, PHASE 7 RECORDED IN THE OFFICE OF THE
DOUGLAS COUNTY RECORDER, STATE OF NEVADA, ON OCTOBER 20, 2006 IN
BOOK 1006, PAGE 7712 AS DOCUMENT NO. 686969, OFFICIAL RECORDS.

APNs: 1420-07-215-001 through 036, inclusive