



KAREN ELLISON, RECORDER

APNs 1318-22-002-001

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Feldman McLaughlin Thiel LLP  
Attn: Kara L. Thiel  
P.O. Box 1309  
Zephyr Cove, NV 89448

### UTILITY EASEMENT AGREEMENT FOR RAW WATER PUMP STATION

This Utility Easement Agreement for Raw Water Pump Station ("Agreement") is made and entered into as of this 11<sup>th</sup> day of July, 2014, by and between TAHOE SHORES, LLC, a Nevada limited liability company ("TS"), and KINGSBURY GENERAL IMPROVEMENT DISTRICT, a Nevada political subdivision ("District"), (collectively, the "Parties") with reference to the following facts and intentions:

A. TS is the owner of certain real property located in Stateline, Douglas County, Nevada, commonly known as Assessor's Parcel Numbers (APNs) 1318-22-002-001 and 002, which is more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference ("TS Property"). TS currently operates a 155-unit Mobile Home Park ("MHP") upon TS Property. The Tahoe Regional Planning Agency ("TRPA") has issued TS a permit to redevelop the MHP, authorizing construction of one hundred forty-three (143) residential condominiums and a private community beach club upon TS Property ("Redevelopment Project").

B. District is the owner of a non-exclusive easement burdening a portion of the TS Property ("District Easement") within APN 1318-22-002-001, as established in that "Agreement Granting New Easement and Extinguishing Existing Easement", dated December 24, 1997, and recorded in the official records of Douglas County as Document No. 0434033, at Book 0398, Page 0804 (hereinafter, "Existing Easement Agreement"), on and pursuant to which District operates a water intake, water treatment and water pumping facility which includes a building housing treatment equipment ("Existing Building"), underground pipelines, electrical conduit and other appurtenances (collectively, "Existing Treatment Plant").

C. District is required to construct additional water treatment facility improvements ("Required Improvements") to comply with water quality standards promulgated by the Environmental Protection Agency (EPA), necessitating expansion of the Existing Treatment Plant. The Existing Building and District Easement cannot accommodate the Required Improvements.

D. Pursuant to an agreement reached between TS and District for the upgrade, relocation and reconstruction of the Existing Treatment Plant, District will construct a New Water Treatment

Facility (“NWTF”) within APN 1318-22-002-002 and, upon completion and testing of the NWTF, demolish the Existing Treatment Plant located on APN 1318-22-002-001.

E. District desires to obtain utility easements from TS within APN 1318-22-002-001 for purposes of constructing and operating a raw pump station to pump untreated water from District’s lake intake line to the NWTF.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

**1. Grant of Pump Easement.** TS grants to District an exclusive utility easement for purposes of locating, constructing, operating, maintaining, repairing and replacing a pump (“Raw Water Pump”) and associated pad (“Pump Easement”) on, over and under APN 1318-22-002-001 in the location described in **Exhibit B** and depicted in **Exhibit C** attached hereto and incorporated herein by reference (“Pump Easement Area”). The Pump Easement Area is limited to no more than 18 inches above the ground surface.

**2. Grant of Electrical Easement.** TS grants to District a public utility easement for purposes of locating, constructing, operating, maintaining, repairing and replacing an electrical panel serving the Raw Water Pump (“Electrical Easement”) on and over APN 1318-22-002-001 in the location described in **Exhibit D** and depicted in **Exhibit E** attached hereto and incorporated herein by reference (“Electrical Easement Area”). The Electrical Easement Area is limited to no more than six (6) feet above the ground surface.

**3. Secondary Easements; Residents’ Quiet Enjoyment.** The easements granted herein include incidental non-exclusive rights of ingress and egress via all-terrain vehicle, only, to and from the Pump and Electrical Easement Areas across TS Property as reasonably necessary for District to operate, maintain, repair and replace the Raw Water Pump and electrical panel. Except in the case of an emergency, if any repairs to Utilities are required to be commenced from the surface of TS Property outside the Pump or Electrical Easement Area, District shall provide written notice of such work to TS, its successors and assigns, and shall describe the nature, scope and proposed schedule of such work. District acknowledges residents currently occupy the MHP on TS Property and, if redeveloped with the Redevelopment Project or another project, residents will occupy TS Property upon completion of such project (collectively, “Residents”). District agrees to conduct its activities within the Pump and Electrical Easement Areas so as not to unreasonably interfere with the Residents’ quiet enjoyment of TS Property

**4. Use of TS Property.** TS reserves the right to use and improve TS Property, including the Electrical Easement Area, for any purpose provided such activities do not interfere with District’s use of the Pump Easement or the Electrical Easement, or impair District’s reasonable exercise of its rights under this Agreement. District acknowledges TS currently operates the MHP on TS Property but intends to redevelop TS Property with the Redevelopment Project which includes a deck or other improvements above the easements granted herein.

**5. Maintenance of Easement Area.** District shall maintain the Pump and Electrical Easement Areas and any improvements thereon in good and safe condition at all times.

**6. Damage to Improvements.** Each party shall repair any damage to the other party's property (real or personal) and/or improvements located on the other party's property and/or the Pump or Electrical Easement Area which occurs as a result of that party's acts or omissions. To determine the existence and extent of any damage, the party discovering the damage shall notify the other party. The parties shall, as soon as reasonably practicable, jointly inspect the damaged property and/or improvements and use their best reasonable efforts to mutually agree as the cause, responsibility, extent and repair/replacement of the damaged property and/or improvements.

**7. Compliance with Law.** District shall comply and conduct its activities in accordance with all local, state and federal laws, regulations and rules. All construction, maintenance, operations, repairs, and other activities conducted by or on behalf of District shall be performed in a good and workmanlike manner by individuals qualified and licensed to perform such activities.

**8. Indemnity.** District shall indemnify, defend and hold harmless TS, its directors, elected officials, officers, agents and employees, from and against any and all claims, damages, losses, liabilities and expenses, including attorneys' fees and costs, which arise out of, relate to or result from the District's use of the Conditional Drainage Easement, including construction, reconstruction, operation, repair or maintenance thereof, or breach of its obligations under this Agreement, except to the extent any liability, claim, damage, loss, cost or expense is caused by TS's negligence or willful misconduct.

**9. Insurance.** District shall maintain commercial general liability insurance so long as District utilizes the Conditional Drainage Easement, with liability limits of no less than Two Million Dollars (\$2,000,000), naming TS, its successors and assigns as additional insureds. District shall cause its Certificates of Insurance to be timely delivered to TS. During initial construction within the Pump and Electrical Easement Areas, District shall maintain Builder's Risk Insurance, naming TS, its successors and assigns as additional assureds. District shall cause its Certificates of Insurance to be delivered to TS prior to use of the easements granted herein.

**10. General Provisions.**

**A. Cooperation.** The parties shall, whenever and as often as reasonably requested to do so by the other party, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all documents and instruments as may be necessary, expedient or proper in the reasonable opinion of the requesting party to carry out the intent and purposes of this Agreement, provided that the requesting party shall bear the cost and expense of such further instruments or documents (except that each party shall bear its own attorneys' fees).

**B. Authority.** The individuals executing this Agreement represent and warrant that they have the authority to enter into this Agreement and to perform all acts required by this

Agreement, and that the consent, approval or execution of or by any third party is not required to legally bind either party to the terms and conditions of this Agreement.

**C. Construction.** The provisions of this Agreement should be liberally construed to effectuate its purposes. The language of all parts of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against either party, as each party has participated in the drafting of this document and had the opportunity to have their counsel review it. Whenever the context and construction so requires, all words used in the singular shall be deemed to be used in the plural, all masculine shall include the feminine and neuter, and vice versa.

**D. Notice.** All notices, approvals, acceptances, demands and other communications required or permitted hereunder, to be effective shall be in writing and shall be delivered either in person or by mailing the same by United States mail (postage prepaid, registered or certified, return receipt requested) or by Federal Express or other similar overnight delivery service to the party to whom the notice is directed at the address of such party as follows:

TS: Robert Mecay  
P.O. Box 12520  
Zephyr Cove, NV 89448

Gary Sabin  
17140 Bernardo Center Drive, Suite 310  
San Diego, CA 92128

With a copy to:

Lewis S. Feldman, Esq.  
Feldman McLaughlin Thiel LLP  
178 U.S. 50 / P. O. Box 1309  
Zephyr Cove, NV 89448

District: Cameron McKay  
General Manager  
Kingsbury General Improvement District  
P. O. Box 976  
Zephyr Cove, NV 89448

With a copy to:

T Scott Brooke, Esq.  
Brooke Shaw Zumpft  
P.O. Box 2860  
Minden, NV 89423

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date and any written communication given by overnight delivery service shall be deemed delivered one (1) business day after the dispatch date. Either party may change its address by giving the other party written notice of its new address as herein provided.

**E. Successors and Assigns.** This Agreement shall be binding on TS and its successors and assigns and inure to the benefit of and bind District or a successor entity so long as the New District Parcel is used for water treatment purposes.

**F. Governing Law.** The validity and interpretation of this Agreement shall be governed by the laws of the State of Nevada without giving effect to the principles of conflict of laws, with venue for all purposes to be proper only in the Ninth Judicial District, in and for Douglas County, State of Nevada.

**G. Severability.** If any term, provision, covenant or condition of this Agreement is determined to be unenforceable by a court of competent jurisdiction, it is the parties' intent that the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated by such a determination.

**H. Attorneys' Fees.** If any arbitration or action at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover actual attorneys' fees which may be determined by the court in the same action or in a separate action brought for that purpose. The attorneys' fees to be awarded shall be made to fully reimburse for all attorneys' fees, paralegal fees, costs and expenses actually incurred in good faith, regardless of the size of the judgment, it being the intention of the parties to fully compensate for all attorneys' fees, paralegal fees, costs and expenses paid or incurred in good faith.

**I. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

**J. Good Faith.** The parties agree to exercise their best efforts and utmost good faith to effectuate all the terms and conditions of this Agreement and to execute such further instruments and documents as are necessary or appropriate to effectuate all of the terms and conditions of this Agreement.

**K. Waiver.** The waiver of any breach of any provision of this Agreement by any party to this Agreement shall not be deemed to be a waiver of any proceeding or subsequent breach under the Agreement, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**L. Entire Agreement and Amendment.** This Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature binding except as stated in this Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first above written.

**Remainder of Page Intentionally Left Blank.**

**[Signature Pages Follow.]**



**TAHOE SHORES, LLC,**  
a Nevada limited liability company

By: SOUTH SHORE TAHOE LLC  
a Nevada limited liability company  
Its Managing Member

By: KBM ENTERPRISES, LLC  
a Nevada limited liability company  
Its Managing Member

By: International Production, LLC  
a Nevada limited liability company  
Its Managing Member

By: *Robert M Mecay*  
Robert Mecay, Managing Member

**ACKNOWLEDGMENT**

STATE OF Nevada )  
  )ss  
COUNTY OF Douglas )

On July 11, 2014, before me, Juliette P. Snyder, Notary Public in and for the County and State, personally appeared Robert Mecay, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within Agreement 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 Agreement the person(s), or the entity upon behalf of which the person(s) acted, executed the Agreement.

WITNESS my hand and official seal.

*Juliette P Snyder*  
Signature

(Seal)

JULIETTE P. SNYDER  
NOTARY PUBLIC  
STATE OF NEVADA  
Appt. No. 02-73776-5  
My Appt. Expires Jan. 13, 2016

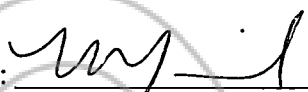




**CERTIFICATE OF ACCEPTANCE**

This Certificate of Acceptance certifies that the interest in real property conveyed by the above Utility Easement Agreement for Raw Water Pump Station, dated 7/11/14, between TAHOE SHORES, LLC, a Nevada limited liability company, and KINGSBURY GENERAL IMPROVEMENT DISTRICT, a Nevada political subdivision, is hereby accepted by the undersigned officer on behalf of KINGSBURY GENERAL IMPROVEMENT DISTRICT, pursuant to authority conferred by resolution of the Board of Directors of Kingsbury General Improvement District, adopted on 7/15/14, and consents to the recordation of the Utility Easement Agreement for Raw Water Pump Station by its duly authorized officer.

Dated: 7/15/14

By:   
Natalie Yanish, ~~President~~  
Chairperson

**EXHIBIT A**

(Tahoe Shores Property)

The land referred to in this Agreement is situated in the County of Douglas, State of Nevada, and is described as follows

PARCEL NO 1

BEING A PORTION OF THE SOUTH ONE-HALF AND THE SOUTHEAST ONE QUARTER OF THE NORTHEAST ONE QUARTER OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 18 EAST, M D B & M , DESCRIBED AS FOLLOWS

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 22, 23, 26 AND 27 OF SAID TOWNSHIP AND RANGE, THENCE SOUTH 60°13'WEST, A DISTANCE OF 127 20 FEET, THENCE NORTH 61° WEST, A DISTANCE OF 134020 FEET TO THE MOST EASTERLY CORNER OF THE NEVADA STATE FARM BUREAU PROPERTY AS DESCRIBED IN THE DEED RECORDED JANUARY 7, 1954 IN BOOK B-1 OF DEEDS, AT PAGE 14, DOUGLAS COUNTY, NEVADA, RECORDS, BEING ALSO THE SOUTHWESTERLY CORNER OF THE PROPERTY SHOWN ON THE MAP OF OLIVER PARK, AS FILED ON FEBRUARY 2, 1959 IN THE OFFICE OF THE COUNTY RECORDER OF DOUGLAS COUNTY, NEVADA, THENCE NORTH ALONG THE EASTERLY LINE OF SAID FARM BUREAU PROPERTY, A DISTANCE OF 300 00 FEET TO AN ANGLE POINT, AND BEING THE NORTHWESTERLY CORNER OF LOT 16, IN BLOCK 3 AS SHOWN ON THE MAP OF OLIVER PARK, THENCE CONTINUING ALONG THE NORTHEASTERLY AND NORTHERLY LINES OF SAID FARM BUREAU PROPERTY, AND THE SOUTHERLY LINE OF THE PROPERTY CONVEYED TO TAHOE VILLAGE PROPERTIES, INC , BY DEED RECORDED AUGUST 19, 1955 IN BOOK B-1 OF DEEDS, AT PAGE 417, DOUGLAS COUNTY, NEVADA, RECORDS, NORTH 32°20'40" WEST, A DISTANCE OF 362 80 FEET, THENCE CONTINUING ALONG THE LINE COMMON TO SAID PROPERTIES NORTH 60°40'41" WEST, A DISTANCE OF 648 68 FEET, TO THE SOUTHWESTERLY CORNER OF THE PROPERTY CONVEYED TO R D KEILLOR, ET AL, BY DEED RECORDED APRIL 16, 1963 IN BOOK 16 OF OFFICIAL RECORDS, AT PAGE 695, DOUGLAS COUNTY, NEVADA, RECORDS, THE TRUE POINT OF BEGINNING, THENCE FROM THE TRUE POINT OF BEGINNING, NORTH 60°46'32" WEST (NORTH 60°40'53" WEST), 1744 35 FEET, (1744 33 FEET) THENCE NORTH 81°15'50" WEST (NORTH 81°12'08" WEST), 399 30 FEET (399 40 FEET) TO THE SOUTHWESTERLY CORNER OF THE PROPERTY CONVEYED TO TAHOE VILLAGE PROPERTIES, INC , AS ABOVE REFERRED TO, THENCE NORTH 00°02'04" WEST (NORTH), 217 00 FEET ALONG THE WEST LINE OF SAID PROPERTY, THENCE NORTH 86°49'14" EAST (NORTH 86°55'13" EAST), ALONG THE NORTHERLY LINE OF SAID PROPERTY, A DISTANCE OF 561 96 FEET, THENCE CONTINUING ALONG SAID NORTHERLY LINE, SOUTH 61°16'41" EAST (SOUTH 61°11'11" EAST), A DISTANCE OF 1747 00 FEET, TO A POINT FROM WHICH THE POINT OF BEGINNING BEARS SOUTH 28°48'49" WEST, THENCE SOUTH 28°44'42" WEST (SOUTH 28°48'49" WEST), ALONG THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF THE PROPERTY CONVEYED TO R D KEILLOR, ET AL, AS ABOVE REFERRED TO AND THE WESTERLY LINE THEREOF, A DISTANCE OF 366 03 FEET (365 71 FEET) TO THE TRUE POINT OF BEGINNING

PARCEL NO 2

BEGINNING AT A POINT ON THE MEANDER LINE OF LAKE TAHOE, WHICH POINT IS THE SOUTHWEST CORNER OF LOT 2, OF SECTION 22, TOWNSHIP 13 NORTH, RANGE 18 EAST, M D B & M , THENCE ALONG A LINE HEREAFTER REFERRED TO AS COURSE 1, EAST 509 52 FEET ALONG THE QUARTER SECTION LINE TO THE CENTER-WEST ONE-SIXTEENTH CORNER (WEST ONE SIXTEENTH CORNER), THENCE SOUTH 00°02'04" EAST (SOUTH ALONG THE ONE SIXTEENTH LINE), 217 00 FEET, THENCE NORTH 89° 11'56" WEST (NORTH 89° 11'30" WEST), 457 06 FEET, TO A POINT ON THE MEANDER LINE, WHICH POINT IS SOUTH 14°02'15" EAST (SOUTH 14°00'00" EAST) 217 00 FEET FROM THE POINT OF BEGINNING THENCE, CONTINUING NORTH 89°11'56" WEST (NORTH 89°11'30" WEST) 50 FEET, MORE OR LESS, TO A POINT ON THE ORDINARY LOW WATER LINE OF LAKE TAHOE AT ELEVATION 6223 00 LAKE TAHOE DATUM, THENCE, NORTHWESTERLY, 222 FEET, MORE OR LESS, ALONG SAID ORDINARY LOW WATER LINE AT 6223 00 LAKE TAHOE DATUM, TO A POINT ON THE WESTERLY EXTENSION OF THE AFORESAID COURSE 1, THENCE, ALONG THE WESTERLY EXTENSION OF THE AFORESAID COURSE 1, NORTH 89°59'24" EAST, 75 FEET, MORE OR LESS, TO THE POINT OF BEGINNING

EXCEPTING ANY PORTION OF THE ABOVE DESCRIBED PROPERTY LYING BELOW THE 6223 00 LEVEL OF LAKE TAHOE AND ALSO ANY ARTIFICIAL ACCRETIONS TO SAID LAND WATERWARD OF SAID LAND OR NATURAL ORDINARY LOW WATER OR IF LAKE LEVEL HAS BEEN ARTIFICIALLY LOWERED EXCEPTING ANY PORTION BELOW SUCH ELEVATION AS MAY BE ESTABLISHED AS THE BOUNDARY BY BOUNDARY LINE ADJUSTMENT WITH THE STATE OR BY QUIET TITLE ACTION IN WHICH THE STATE IS A PARTY

NOTE THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED FEBRUARY 7, 2002 IN BOOK 202, PAGE 2102 AS DOCUMENT NO 534184 OF OFFICIAL RECORDS

**EXHIBIT 'B'**

**Pump Easement (18 inches Above Ground)  
Legal Description**

**REAL PROPERTY** in the County of Douglas, State of Nevada, being a portion of the South 1/2 and the Southeast 1/4 of the Northeast 1/4 of Section 22, Township 13 North, Range 18 East, M D B & M described as follows

**COMMENCING** at the Southeast corner of Parcel 2 as described in Document # 787255, Book 711, Page 5986, Official Records of Douglas County, Nevada, Thence, along the South line of said Parcel 2, North 89°11'56" West, 363 02 feet, Thence, leaving said South line, North 00°43'25" East, 10 00 feet to the **Point of Beginning**,

Thence the following Four (4) courses

- 1 North 00°43'25" East, 20 75 feet,
- 2 North 89°11'56" West, 15 00 feet,
- 3 South 00°43'25" West, 20 75 feet,
- 4 South 89°11'56" East, 15 00 feet,

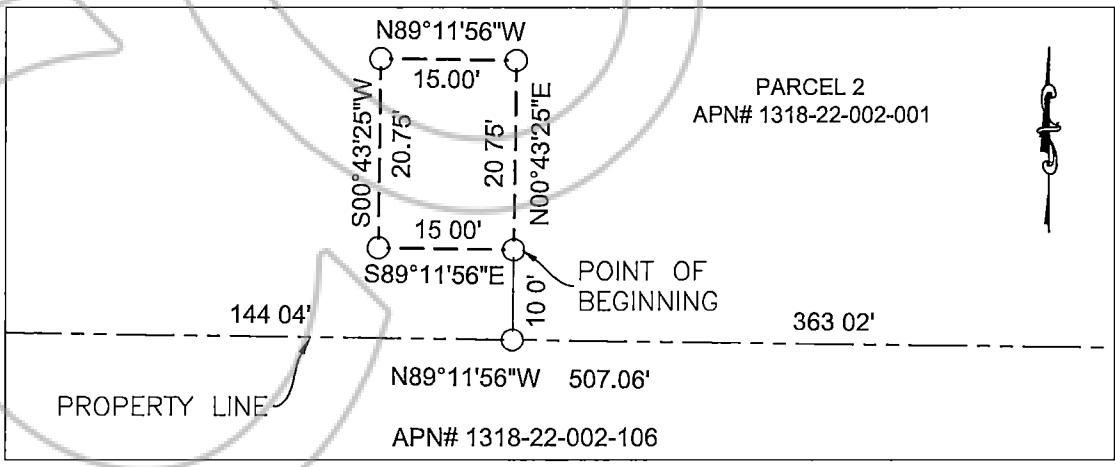
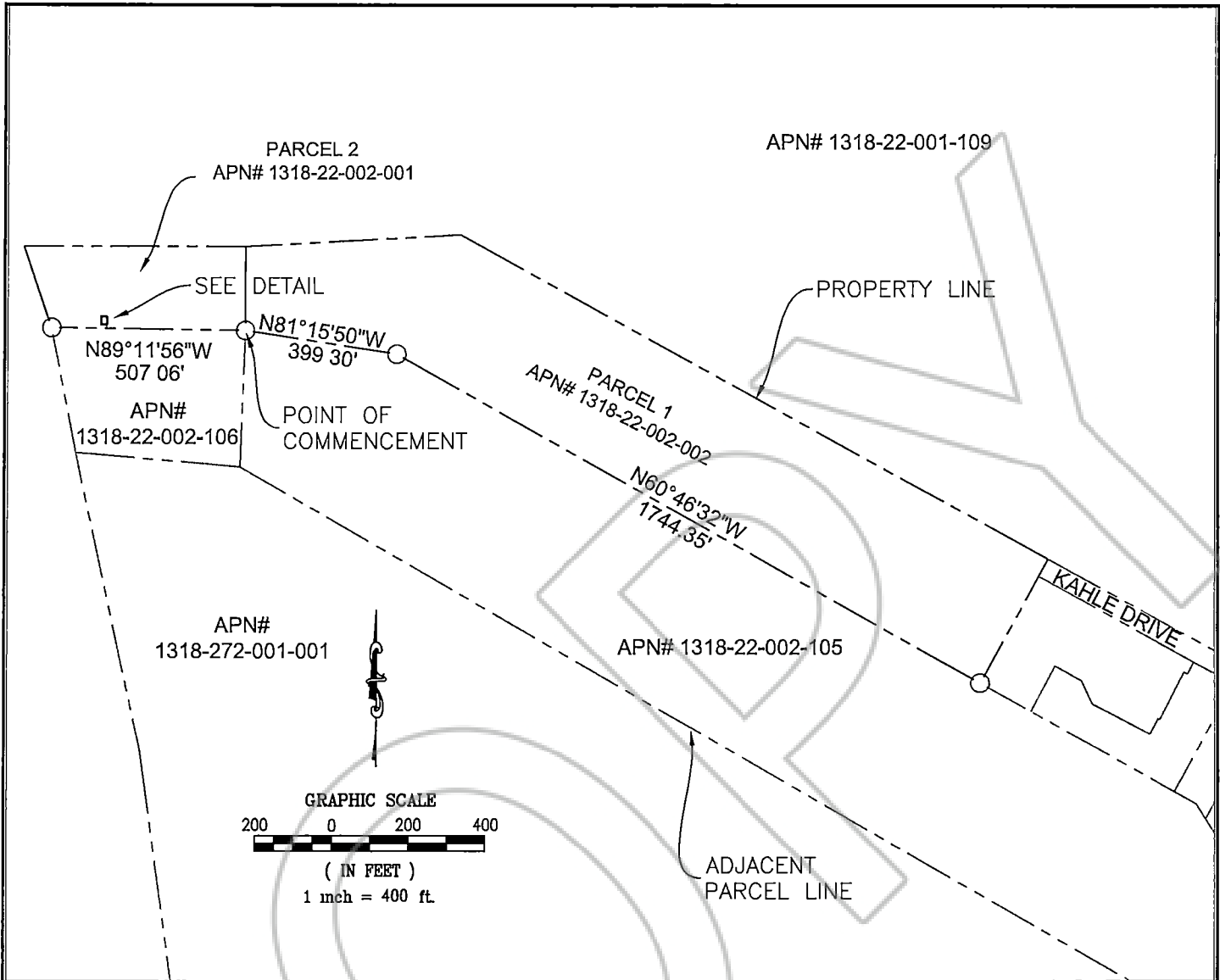
To the **Point of Beginning**, AND CONTAINING an area of 311 square feet, more or less

Description Basis of Bearing

The basis of bearing for this description from that certain document recorded July, 29, 2011 in Book 711, Page 5987 as Document # 787255, Official Records of Douglas County, Nevada

A portion of Douglas County Assessor's Parcel Number APN# 1318-22-002-001

End of This Description



**STANDARD DETAIL**  
 1"=20'

**EXHIBIT "C"**

**PUMP EASEMENT (18" ABOVE GROUND)**

**EXHIBIT 'D'**

**Electrical Easement (6 FT Above Ground)  
Legal Description**

**REAL PROPERTY** in the County of Douglas, State of Nevada, being a portion of the South 1/2 and the Southeast 1/4 of the Northeast 1/4 of Section 22, Township 13 North, Range 18 East, M D B & M described as follows

**COMMENCING** at the Southeast corner of Parcel 2 as described in Document # 787255, Book 711, Page 5986, Official Records of Douglas County, Nevada, Thence, along the South line of said Parcel 2, North 89°11'56" West, 325 19 feet to the **Point of Beginning**,

Thence the following Four (4) courses

- 1 Leaving said South line, North 00°43'25" East, 10 00 feet,
- 2 North 89°11'56" West, 24 00 feet,
- 3 South 00°43'25" West, 10 00 feet,
- 4 South 89°11'56" East, 24 00 feet,

To the **Point of Beginning**, AND CONTAINING an area of 240 square feet, more or less

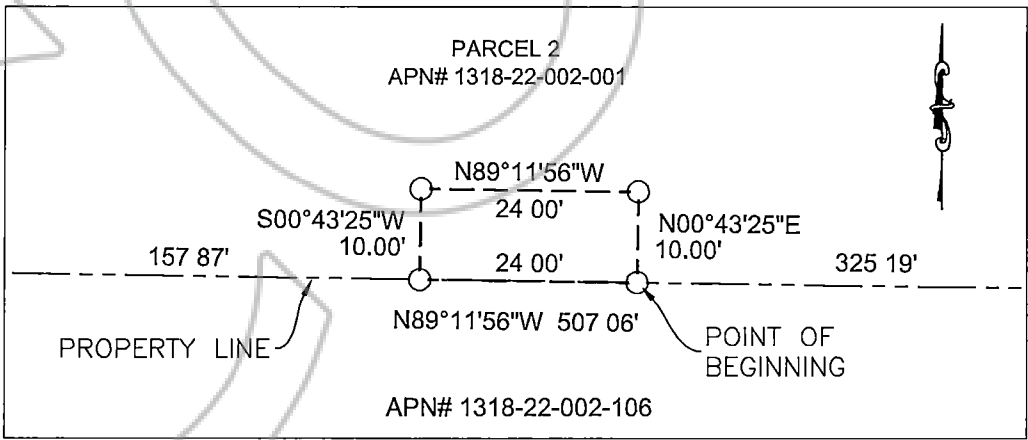
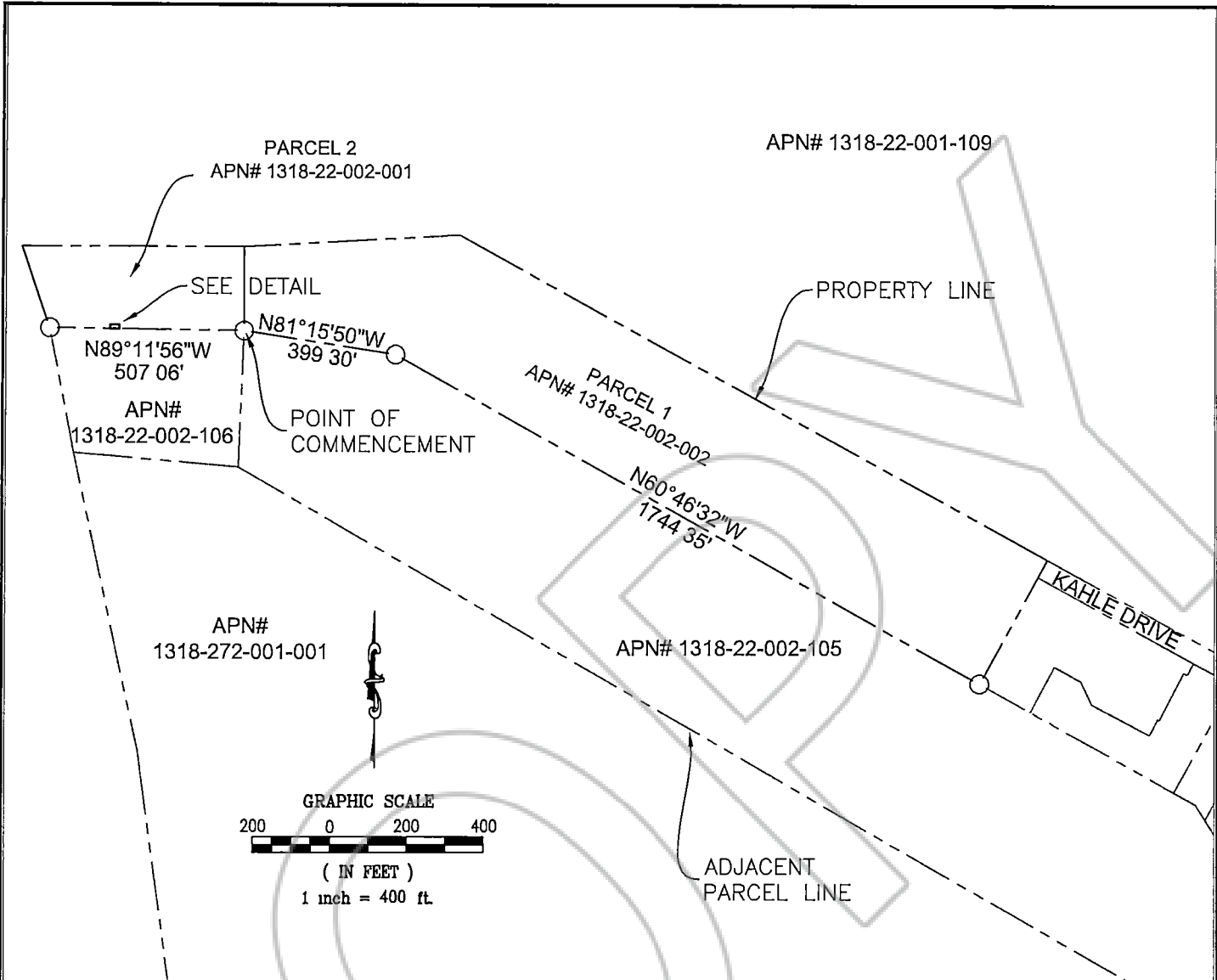
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The basis of bearing for this description from that certain document recorded July, 29, 2011 in Book 711, Page 5987 as Document # 787255, Official Records of Douglas County, Nevada

A portion of Douglas County Assessor's Parcel Number APN# 1318-22-002-001

End of This Description





STANDARD DETAIL  
1"=20'

**EXHIBIT "E"**

**ELECTRICAL EASEMENT (6 FT ABOVE GROUND)**