

DOUGLAS COUNTY, NV

2016-877130

Rec:\$28.00

\$28.00 Pgs=15

02/22/2016 01:42 PM

HOLLEY DRIGGS WALCH FINE WRAY PUZEY &

KAREN ELLISON, RECORDER

APN# 1319-03-611-025

**Recording Requested by/Mail to:**

Name: Bank of America, N.A.

Address: 135 S La Salle Street, Suite 1140

City/State/Zip: Chicago, IL 60603

Attn.: Thomas E. Czerwinski, Vice President

**Mail Tax Statements to:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Negative Pledge Agreement

**Title of Document** (required)

----- (Only use if applicable) -----

The undersigned hereby affirms that the document submitted for recording contains personal information as required by law: (check applicable)

Affidavit of Death – NRS 440.380(1)(A) & NRS 40.525(5)

Judgment – NRS 17.150(4)

Military Discharge – NRS 419.020(2)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

This document is being (re-)recorded to correct document # \_\_\_\_\_, and is correcting

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\$1.00 Additional Recording Fee for Use of This Page

APN: 1319-03-611-025

**Recorded Requested by and  
When Recorded Return to:**

Bank of America, N.A.  
135 S La Salle Street, Suite 1140  
Chicago, IL 60603  
Attn.: Thomas E. Czerwinski, Vice President

---

(Above This Line for Recorder's Use Only)

**NEGATIVE PLEDGE AGREEMENT**

By this Negative Pledge Agreement (this "Agreement"), dated as of January \_\_, 2016 (the "Effective Date"), Mario J. Antoci and M. Diane Antoci, Successor Trustees of the Mario J. Antoci and M. Diane Antoci Family Trust dated January 16, 1991 (the "Obligor"), and Bank of America, N.A. (the "Bank"), in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, represent, warrant, covenant and agree as follows.

**ARTICLE I**

**RECITALS**

1.01 Note. The Obligor and Mario J. Antoci and M. Diane Antoci as individuals (the "Individual Obligor") have executed that certain Promissory Note dated of even date herewith, in the principal sum of Four Hundred Twenty-Five Thousand and 00/100 Dollars (\$425,000), in favor of the Bank (the "Note"). Neither the Note nor any proceeds thereof will be used for personal, family or household purposes.

1.02 Negative Pledge. As a condition of the Bank's acceptance of the Note, Obligor has agreed to the promises and covenants set forth in this Agreement.

1.03 Definitions. Certain terms used herein shall have the meaning ascribed to such terms as set forth in Schedule 1 attached hereto.

1.04 Rules of Construction. The words "Schedule" or "Exhibit" shall mean an enumerated schedule or exhibit all of which shall be deemed attached to this Agreement and incorporated herein by way of the specific reference or references made in this Agreement. Each reference to a "Section" or an "Article" shall be deemed a reference to an enumerated provision of this Agreement. Section headings are used for convenience only and shall have no interpretative effect or impact whatsoever. All the defined terms, if defined in the singular or present tense, shall retain such specified meaning if used in the plural or past tense, and if defined in the plural or past tense, shall retain the specified meaning if used in the singular or

present tense. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

## ARTICLE II

### NEGATIVE PLEDGE

2.01 Negative Pledge. So long as any of the obligations under Note remain outstanding, and without the prior express written consent of the Bank, the Obligor will not encumber, pledge, grant a security interest in, transfer, assign, sell, lease, license, grant an easement on, subject to covenants, conditions or restrictions, or otherwise convey, or agree or consent to do any of the foregoing (which shall include, but is not limited to, entering into any other negative pledge agreement or similar agreement), with respect to the Property.

2.02 Nature of Negative Pledge, Waivers. This is an absolute, unconditional and continuing agreement not to perform those acts prohibited in Section 2.01 and will remain in full force and effect until all obligations under the Note have been fully satisfied. This Agreement will extend to and cover renewals, extensions, or modifications of the Note, if any, and any number of extensions of time for payment thereof, if any. Notice of acceptance of this Agreement, notice of extensions of credit to the Obligor or any of them from time to time, notice of default, diligence, presentment, protest, demand for payment, notice of demand or protest, any defense based upon a failure of Bank to comply with the notice of demand or protest, and any defense based upon a failure of Bank to comply with any notice requirements, express or implied, are hereby waived.

## ARTICLE III

### REPRESENTATIONS AND WARRANTIES.

In order to induce the Bank to enter into this Agreement, Obligor makes the following representations and warranties to the Bank, and such representations and warranties shall survive the execution and delivery of this Agreement:

3.01 Due Organization and Qualification. Obligor is a validly existing trust and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into this Agreement, and to carry out the transactions contemplated thereby.

3.02 Due Authorization. The execution, delivery, and performance by Obligor of this Agreement have been duly authorized by all necessary trust action.

3.03 Ownership of Property. Obligor owns fee simple title to the Property, owns all of the beneficial and equitable interests in and to the Property, and is lawfully seized and possessed of the Property. The Land is subject to no Encumbrances other than the Permitted Encumbrances.

**ARTICLE IV**

**MISCELLANEOUS**

4.01 Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally or by facsimile or email transmission or mailed (certified mail, return receipt requested) to the Parties at the following addresses:

If to Bank: Bank of America, N.A.  
135 S La Salle Street, Suite 1140  
Chicago, IL 60603  
Attn.: Thomas E. Czerwinski, Vice President  
Phone: (312) 828-3584  
Fax: (312) 828-3488  
Email: [thomas.czerwinski@bankofamerica.com](mailto:thomas.czerwinski@bankofamerica.com)

With copy to: Richard F. Holley, Esq.,  
Ogonna M. Brown, Esq.  
Holley Driggs Walch Fine Wray Puzey &  
Thompson  
400 S 4th Street, Third Floor  
Las Vegas, Nevada 89101  
Phone: (702) 791-0308  
Fax: (702) 791-1912  
Email: [rholley@nevadafirm.com](mailto:rholley@nevadafirm.com)  
[obrown@nevadafirm.com](mailto:obrown@nevadafirm.com)

If to Obligor: Mario J. Antoci and M. Diane Antoci Family Trust  
Mail:  
P.O. Box 592, Genoa, Nevada 9411-0592  
Delivery:  
2501 Genoa Aspen Dr., Genoa, NV 89411  
Attention: Mario J. Antoci and M. Diane Antoci

With copy to: Joan C. Wright, Esq.  
Ryan D. Russell, Esq.  
Allison, MacKenzie, Pavlakis, Wright & Fagan  
402 N. Division St.  
Carson City, NV 89703  
Phone: (775) 687-7918  
Fax: (775) 882-7918  
Email: [JWright@allisonmackenzie.com](mailto:JWright@allisonmackenzie.com)  
[RRussell@allisonmackenzie.com](mailto:RRussell@allisonmackenzie.com)

All such notices, requests and other communications shall (a) if delivered personally or by overnight courier, to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by facsimile transmission to the facsimile number as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day, otherwise the next Business Day); (c) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day, otherwise the next Business Day); provided that notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 5.01; and (d) if delivered by mail in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted deliver, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any Party from time to time may change such Party's address, facsimile number or other information for the purpose of notices to that Party by giving notice specifying such change to the other Party.

4.02 Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof and thereof between the Parties, and contains the sole and entire agreement between the Parties with respect to the subject matter hereof and thereof.

4.03 Time. It is further agreed that time is of the essence of this Agreement and each provision of this Agreement.

4.04 Amendment. Neither this Agreement nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by the Party against whom enforcement of the change, waiver, discharge or termination is sought.

4.05 Headings. Paragraph or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Agreement.

4.06 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

4.07 No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each Party and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person.

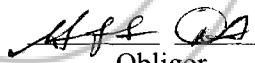
4.08 Binding Effect. This Agreement is binding upon, inures to the benefit of and is enforceable by the Parties and each Party's respective successors and assigns.

4.09 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Agreement shall not be materially and adversely affected thereby: (a) such provision shall be fully severable; (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

4.10 Governing Law. This Agreement, and the application or interpretation hereof, shall be governed exclusively by the Laws of the State of Nevada. It is agreed that any action or suit against Bank arising out of or relating to this Agreement shall be filed in the United States District Court for the District of Nevada (Southern Division) or the Eighth Judicial District Court, Clark County, Nevada. Obligors agree that Bank shall not be deemed to have waived its rights to enforce this section by filing an action or suit against Obligors in a venue outside of the State of Nevada. If Bank does commence an action or suit arising out of or relating to this Agreement, Obligors agree that the case may be filed in United States District Court for the District of Nevada (Southern Division) or the Eighth Judicial District Court, Clark County, Nevada. Bank reserves the right to commence an action or suit in any other jurisdiction where Obligor or any of the Property has any presence or is located. Obligors consent to personal jurisdiction and venue and the convenience of any such forum. The provisions of this section are material inducements to Bank's acceptance of the Note and this Agreement.

4.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered as facsimiles or email (in .pdf format) shall be binding to the same extent as original signatures.

4.12 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO: (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER DOCUMENTS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

  
Obligor

\_\_\_\_\_  
Bank

4.09 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Agreement shall not be materially and adversely affected thereby: (a) such provision shall be fully severable; (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

4.10 Governing Law. This Agreement, and the application or interpretation hereof, shall be governed exclusively by the Laws of the State of Nevada. It is agreed that any action or suit against Bank arising out of or relating to this Agreement shall be filed in the United States District Court for the District of Nevada (Southern Division) or the Eighth Judicial District Court, Clark County, Nevada. Obligors agree that Bank shall not be deemed to have waived its rights to enforce this section by filing an action or suit against Obligors in a venue outside of the State of Nevada. If Bank does commence an action or suit arising out of or relating to this Agreement, Obligors agree that the case may be filed in United States District Court for the District of Nevada (Southern Division) or the Eighth Judicial District Court, Clark County, Nevada. Bank reserves the right to commence an action or suit in any other jurisdiction where Obligor or any of the Property has any presence or is located. Obligors consent to personal jurisdiction and venue and the convenience of any such forum. The provisions of this section are material inducements to Bank's acceptance of the Note and this Agreement.

4.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered as facsimiles or email (in .pdf format) shall be binding to the same extent as original signatures.

4.12 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO: (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER DOCUMENTS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

\_\_\_\_\_  
Obligor

  
\_\_\_\_\_  
Bank

4.13 Covenant Running with the Land. This Agreement shall run with the Land and all parts and parcels thereof and shall be binding on all parties having any right, title, or interest in the Land and on Obligor, its successors, and assigns and shall inure to the benefit of Bank Declarant and its successors, and assigns. Each of the limitations, obligations, covenants, conditions, and restrictions imposed hereby shall be deemed to be and construed as equitable servitudes enforceable by Bank against any owner of any portion of the Land and against any other tenant or occupant of the Land.

4.14 Termination. This Agreement shall terminate and be of no further force or effect up on the satisfaction in full of all Obligor's duties and obligations under the Note.

4.15 Attorneys' Fees. In the event of an action or other proceeding to enforce any rights arising under this Agreement, the party prevailing in such Action or Proceeding shall be paid all reasonable costs and attorneys' fees by the other party, such fees to be set by the court and not by a jury and to be included in any Order entered in such Action or Proceeding.

4.16 Cumulative Remedies. All rights, options and remedies of Bank contained in this Agreement shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Bank shall have the right to pursue anyone or all of such remedies or any other remedy or relief which may be provided by law or equity, whether or not stated in this Agreement. Obligor acknowledges that a default by Obligor may cause Bank to suffer material injury or damage not compensable in money and that Bank shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with the terms of this Agreement or bring an action for an injunction to enjoin the continuance of any such breach or violation.


SIGNATURES ON FOLLOWING PAGES

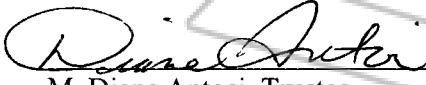


DATED as of the day and date first above written.

**OBLIGOR:**

Mario J. Antoci and M. Diane Antoci, Successor Trustees of the Mario J. Antoci and M. Diane Antoci Family Trust dated January 16, 1991

By:   
Mario J. Antoci, Trustee

By:   
M. Diane Antoci, Trustee

**BANK:**

Bank of America, N.A.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACKNOWLEDGEMENTS ON FOLLOWING PAGE

STATE OF Washington )  
COUNTY OF Distric of Columbia ) ss.

This instrument was acknowledged before me on February 16, 2016, by Mario J Antoci.

WITNESS my hand and official seal.

Katharine V. Tafuri  
Notary Public

KATHARINE V. TAFURI  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires April 30, 2018



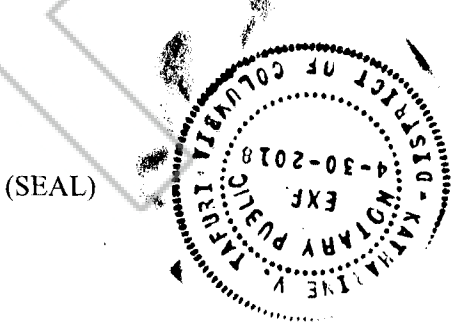
STATE OF Washington )  
COUNTY OF Distric of Columbia ) ss.

This instrument was acknowledged before me on February 16<sup>th</sup>, 2016, by M. Diane Antoci.

WITNESS my hand and official seal.

Katharine V. Tafuri  
Notary Public

KATHARINE V. TAFURI  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires April 30, 2018



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

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by \_\_\_\_\_, the \_\_\_\_\_ of Bank of America, N.A.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

DATED as of the day and date first above written.

**OBLIGOR:**


Mario J. Antoci and M. Diane Antoci, Successor Trustees of the Mario J. Antoci and M. Diane Antoci Family Trust dated January 16, 1991

By: \_\_\_\_\_  
Mario J. Antoci, Trustee

By: \_\_\_\_\_  
M. Diane Antoci, Trustee

**BANK:**

Bank of America, N.A.

By:   
Name: THOMAS CZERNINSKI  
Title: VICE PRESIDENT

ACKNOWLEDGEMENTS ON FOLLOWING PAGE

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

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by Mario J Antoci.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

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

This instrument was acknowledged before me on \_\_\_\_\_, 2016, by M. Diane Antoci.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

STATE OF Illinois )  
 ) ss.  
COUNTY OF Cook )

This instrument was acknowledged before me on January 20, 2016, by Thomas Czarwinski the Vice President of Bank of America, N.A.

WITNESS my hand and official seal.

Latanya L. Cokley  
Notary Public - Latanya L. Cokley



## SCHEDULE 1

### DEFINED TERMS

As used in the Agreement, the following terms shall have the following definitions:

“Action or Proceeding” means any lawsuit, claim, demand, complaint, service of process, or other similar procedure established for the resolution of disputes in accordance with Law.

“Agreement” means this Agreement.

“Article” has the meaning specified therefor in Section 1.05 to the Agreement.

“Bank” has the meaning specified therefor in the preamble to the Agreement.

“Business Day” means any Monday, Tuesday, Wednesday, Thursday, or Friday that is not a federal or Nevada state holiday.

“Claim” means any assertion of fact or of Law.

“Effective Date” has the meaning specified therefor in the preamble to the Agreement.

“Exhibit” has the meaning specified therefor in Section 1.05 to the Agreement.

“Governmental Authority” means any federal, state, local, or other governmental or administrative body, instrumentality, board, department, or agency or any court, tribunal, administrative hearing body, arbitration panel, commission, or other similar dispute-resolving panel or body that has jurisdiction with respect to the Person or subject matter.

“Law” means any federal, state, local, or municipal statute, case, administrative ruling, ordinance, finding, holding, or adjudication by any Governmental Authority that pertains to the Person or subject matter.

“Note” has the meaning specified therefor in Section 1.01 to the Agreement.

“Obligor” has the meaning specified therefor in the preamble to the Agreement.

“Order” means any order, ruling, or adjudication by a court, factfinder, or other Governmental Authority.

“Permitted Encumbrance” means those exceptions to title set forth on Pages 2 and 3 of the Report of Title issued by Fidelity National Title on December 18, 2015, order number 22056741.

“Person” means natural persons, corporations, limited liability companies, limited partnerships, general partnerships, limited liability partnerships, joint ventures, trusts, land trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

“Property” shall mean the parcel or parcels of land commonly referred to as 2501 Genoa Aspen Drive, Genoa, Nevada, 89411 and described in Exhibit A attached hereto and by this reference made a part hereof (the “Land”) together with: (a) the buildings, foundations, structures and improvements (including fixtures) now or hereafter located on or in the Land (collectively, the “Improvements”); (b) all right, power, privilege, option, title and interest, if any, of Obligor in and to the streets and roads, opened or proposed, abutting the Land, all strips and gores within or adjoining the Land, the air space and right to use the air space above the Land, all rights of ingress and egress to and from the Land, all easements, rights of way, reversions, remainders, estates, rights, titles, interests, privileges, servitudes, tenements, hereditaments, and appurtenances now or hereafter affecting the Land or the Improvements, all royalties and rights and privileges appertaining to the use and enjoyment of the Land or the Improvements, including all air, lateral support, streets, alleys, passages, vaults, drainage, water, oil, gas and mineral rights, development rights, all leases and licenses and options to purchase or lease, and all other interests, estates or claims, in law or in equity, which Obligor now has or hereafter may acquire in or with respect to the Land or the Improvements.

“Schedule” has the meaning specified therefor in Section 1.05 to the Agreement.

“Section” has the meaning specified therefor in Section 1.05 to the Agreement.

EXHIBIT "A"

DESCRIPTION OF LAND

Lot 50 of Block J, as said Lot and Block are set forth on the Official Map of GENOA LAKES PHASE 1 B, Recorded June 28, 1993 in Book 693, Page 6217, as Document No. 311009, of the Official Records of Douglas County, State of Nevada.

