

28-

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

Matthew Taylor
Clear Creek OS, LLC
199 Old Clear Creek Road
Carson City, Nevada 89705



KAREN ELLISON, RECORDER

The undersigned hereby affirm(s) 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)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "**Agreement**") is made and entered into by and between **CLEAR CREEK OS, LLC, a Delaware limited liability company ("Grantor")**, and **CLEAR CREEK RESIDENTIAL, LLC, a Delaware limited liability company ("Grantee")**, with reference to the following recitals:

- A. Grantee is the owner of the Residential Property, and Grantor is the owner of the Open Space Property.
- B. In connection with the use and development of the Residential Property, Grantee desires to acquire certain easement rights over the Easement Area located on the Open Space Property.
- C. Grantor is willing to grant Grantee its desired easement rights over the Easement Area, pursuant and subject to the terms and conditions set forth herein.

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

1. **DEFINITIONS; INTERPRETATION.**

1.1 **Definitions.** The terms used in this Agreement shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms used herein shall be defined as set forth below, and shall incorporate the concepts set forth in each definition.

"Business Day" means any day other than a Saturday, Sunday, or day that is a legal holiday under the laws of the State of Nevada or is a day on which banking institutions located in the State of Nevada are authorized or required by law or other governmental action to close.

"Easement Area" means the real property located in Douglas County, Nevada, more particularly described in **Exhibit "C"** attached hereto, and depicted in **Exhibit "D"** attached hereto.

"Improvements" means all cluster mailboxes, postal delivery facilities, and any appurtenant structures, improvements, infrastructure, and facilities, and any appurtenant structures, improvements, infrastructure, and facilities, and all repairs and replacements thereof and modifications thereto.

"Official Records" means the official records of the County Recorder of Douglas County, Nevada.

"Properties" means, collectively, the Open Space Property and the Residential Property.

"Open Space Property" means that certain real property located in Douglas County, Nevada, more particularly described in **Exhibit "A"** attached hereto.

"Residential Property" means that certain real property located in Douglas County, Nevada, more particularly described in **Exhibit "B"** attached hereto.

"Scope of Residential Easement" means (i) postal delivery service to and from the Residential Property, as now or hereafter developed in accordance with applicable law and all development entitlements and approvals issued by applicable governmental authorities, (ii) the construction, installation, use and enjoyment, repair, replacement, and maintenance of Improvements as necessary to enjoy the aforementioned rights; and (iii) such access as may be necessary to enjoy the foregoing rights.

1.2 **References.** All references to Exhibits or Schedules refer to Exhibits or Schedules, as applicable, attached to this Agreement and all such Exhibits and Schedules are incorporated herein by reference. The words "herein," "hereof," "hereinafter" and words of similar import refer to this Agreement as a whole and not to any particular Section hereof.

1.3 **Other Usages.** When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and the neuter and vice versa. The use in this Agreement of the term "including" and related terms such as "include" shall in all cases mean "without limitation."

1.4 **Headings.** The various headings of this Agreement are included for convenience only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

1.5 **Joint Product of Parties.** This Agreement is the result of arms-length negotiations between Grantor, Grantee, and their respective attorneys. Accordingly, no party shall be deemed to be the author of this Agreement, nor shall this Agreement be construed against any party.

1.6 **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included at, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. Unless otherwise expressly provided herein, the last day of any period of time described herein shall be deemed to end at 5:00 p.m., Nevada time.

2. **GRANT OF EASEMENT.** Grantor hereby grants to Grantee, for the benefit of the Residential Property to the extent of the Scope of the Residential Easement, a perpetual, non-exclusive easement over, across, and under the Easement Area.

3. **IMPROVEMENTS.**

3.1 **Right to Undertake Action for Improvements.** Grantee may undertake the construction, installation, repair, replacement, modification, and/or maintenance of any particular permitted Improvement upon the Easement Area from time to time. Except in case of emergency or routine maintenance, Grantee shall provide Grantor with not less than three (3) days prior written notice before commencing construction, installation, repair, replacement, modification, and/or maintenance of the relevant Improvement. All such activities will be conducted in a reasonably expeditious and diligent manner, and so as to minimize to the extent possible any interruption of or interference with the quiet use and enjoyment of the Open Space Property. Notwithstanding any review of information or consent to any activities by Grantor, Grantee shall be solely responsible for, and Grantor shall not be responsible nor liable for nor have any control or charge over, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with construction, installation, repair, replacement, modification, and/or maintenance of the Improvements. Grantee shall be solely responsible for all costs and expenses associated with the plans, specifications, drawings, permits, financial assurances, materials, equipment, and labor associated with the applicable construction, installation, repair, replacement, modification, and/or maintenance on the Improvements.

3.2 **Maintenance; Duty to Repair.** Except as provided in Section 3.3 below, Grantee shall at all times be solely responsible for the maintenance and repair (including any necessary replacements) of the Improvements, and Grantee shall maintain the Improvements in good order and repair, and in a high quality condition. In the event any Grantee causes any damage or modification to the surface of the Open Space Property or any improvements, landscaping, or native vegetation thereon as a result of the exercise of its rights herein (other than modifications to the Easement Area in connection with the original installation of any Improvements), such Grantee shall, at its sole cost and expense, expeditiously repair and restore such portion of the Open Space Property and/or such improvements, landscaping, or native vegetation to its/their condition prior to the exercise of such rights.

3.3 **Grantor's Right to Cure.** In the event Grantor determines that Grantee is in material breach or default of Section 3.2, Grantor may provide written notice thereof to Grantee describing in reasonable detail the nature of such default and the action to be undertaken to cure the default. If Grantee fails to cure such default within thirty (30) days of delivery of such written notice, Grantor shall have the right to cure the default; provided, however, if the nature of the default is such that it is not commercially reasonable or capable of being cured within such thirty (30) day period, then provided Grantee commences to cure the default within such thirty (30) day period and thereafter diligently prosecutes the same to completion, then the default shall be deemed suspended pending such cure. If the default is not cured or suspended in accordance with the foregoing, Grantor may take any action it deems necessary to cure the default. Grantee shall pay the actual and commercially reasonable cost incurred by Grantor in exercising such right within thirty (30) days of delivery of an invoice therefor, together with such supporting and back-up invoices and other materials as are reasonably sufficient for Grantee to determine the accuracy and propriety of such billing.

3.4 **Compliance with Laws.** Grantee shall fully comply with (and shall cause all persons acting through or on behalf of Grantee to fully comply with) all laws, ordinances, rules, and regulations in the exercise of its rights hereunder or otherwise applicable to the Easement Area and the construction, installation, maintenance, repair, use and/or replacement of the any Improvement thereon.

3.5 **Protection from Mechanics' Lien Claims.** Grantee shall pay when due all costs, fees or other expenses associated with construction, installation, maintenance, repair, use and/or replacement of any Improvement, and shall indemnify, defend and hold harmless Grantor from any mechanics' liens, actions or liabilities arising from non-payment of such costs, fees or other expenses. If, by reason of the withholding of any payment, any mechanics' liens are filed against the Open Space Property, Grantee shall, upon written demand of Grantor, immediately post such surety bond as is necessary to release such mechanics' lien(s) from the Open Space Property.

4. **INDEMNITY.** Without limiting any other right or remedy of Grantor herein, Grantee shall defend, protect, indemnify and hold harmless Grantor against any and all damages, losses, expenses, assessments, fines, costs and liabilities (including without limitation, all interest, penalties and attorney's fees, and any mechanics' liens, actions or liabilities arising from non-payment of costs, fees or other expenses related to construction, installation, maintenance, repair, use and/or replacement of any Improvement) based upon or arising out of any claim of personal injury, property damage, or other claim resulting from Grantee's use of its easements hereunder, or otherwise arising out of or relating to Grantee's rights and obligations pursuant to this Agreement (including, without limitation, Grantee's construction, installation, maintenance, and/or use of the Improvements).

5. **CONDEMNATION.** Grantee shall not, by reason of the easements created pursuant to this Agreement, have any right to any award or payment received by Grantor as a result of any

portion of the Open Space Property being taken through an exercise of the power of eminent domain.

6. **MISCELLANEOUS PROVISIONS.**

6.1 **Easements Appurtenant; Covenants and Equitable Servitudes.** The easements granted under this Agreement shall be easements appurtenant to the Properties. All provisions of this Agreement shall be binding upon the respective successors and assigns of Grantor and Grantee, and shall be deemed to run with the Properties as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the Properties, and to all persons hereafter acquiring or owning any interest in either of the Properties, however such interest may be obtained.

Notwithstanding the foregoing, in light of the parties' expectation that all or a portion of the Residential Property may be subdivided and conveyed to consumer, residential lot buyers in the future, the parties hereby further agree that this Agreement, other than the use easements granted in Section 2 above, shall terminate as to a portion of the Residential Property, without any further action by any party, at such time as said portion of the Residential Property is (i) conveyed to consumer, residential lot buyer, or (ii) accepted for dedication by the County or a Public Utility (as defined in Section 6.17).

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

6.3 **No Other Inducement.** The making, execution and delivery of this Agreement by the parties hereto has been induced by no representations, statements, warranties or agreements other than those herein expressed.

6.4 **Construction and Interpretation.** Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but, if any provision of this 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 Agreement. This Agreement shall be construed as if Grantor and Grantee jointly prepared this 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.

6.5 **Paragraph Headings.** The headings of the several paragraphs of this 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.

6.6 **Attorneys' Fees.** Should any party hereto employ an attorney for the purpose of enforcing or construing this Agreement, or any judgment based on this 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 each opposing 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.

6.7 **Governing Law.** This 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.

6.8 **Counterparts.** This 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.

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

6.10 **Entire Agreement.** This 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.

6.11 **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 Agreement.

6.12 **Limitation of Liability.** As used in this Agreement, the term "Grantor" means only a current owner of fee title to the Open Space Property at the time in question. Each Grantor is obligated to perform the obligations of Grantor under this Agreement only during the time such Grantor owns such title. Any Grantor who transfers all of its interests in the Open Space Property is relieved of all liability with respect to the obligations of Grantor under this Agreement to be performed on or after the date of transfer. Similarly, as used in this Agreement, the term "Grantee" means only a current owner of fee title to the relevant portion of the Residential Property at the time in question. Each Grantee is obligated to perform its obligations under this Agreement as owner of any portion of the Residential Property only during the time such Grantee owns title to such portion. Any owner who transfers all of its interests in a portion of the Residential Property is relieved of all liability with respect to the obligations of an owner of that portion of the Residential Property under this Agreement to be performed on or after the date of transfer.

6.13 **Enforcement; Breach Shall Not Permit Termination.** Each party bound hereby shall have the right (but not the duty) to enforce its rights hereunder against the other parties hereto. No breach of this Agreement shall entitle any party to cancel, rescind or

otherwise terminate this 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.

6.14 **Relocation, Modification, and/or Contraction.** Grantor and Grantee may, upon written agreement of Grantor and Grantee, relocate, modify, and/or contract the Easement Area from time to time, provided that such relocation, modification, and/or contraction is approved by Douglas County, a sufficient replacement easement area is provided, and notice of such relocation, modification, and/or contraction, complete with a legal description of the new easement area, is recorded in the Official Records of Douglas County, Nevada. Upon each relocation, modification, and/or contraction, the new easement area shall be deemed the "Easement Area" for purposes of this Agreement. The parties bound hereto agree to cooperate and coordinate with one another in good faith to cause any relocation, modification, and/or contraction of the Easement Area to be performed in an efficient and economical manner. Unless the parties bound hereto mutually agree otherwise in writing, the costs associated with any relocation hereunder shall be borne by the relevant party requesting such relocation. For clarification, upon any relocation the terms of Section 3 apply to the Easement Area, and all Improvements thereon, as relocated.

6.15 **Notices.** All notices and demands of any kind which any party hereto may be required or desire to serve upon any other party under the terms of this Agreement shall be in writing and shall be served upon such other party (a) by personal service upon such other party, whereupon service shall be deemed complete, (b) by telecopy or email, followed by a hard copy mailed the same day, whereupon service shall be deemed completed on the day telecopy or email, as applicable, was sent, (c) by Federal Express or other recognized overnight delivery service, whereupon service shall be deemed complete the next business day, or (d) by mailing a copy thereof by certified or registered mail, postage prepaid, with return receipt requested, whereupon service shall be deemed complete on the day actual delivery is made, as shown by the addressee's registry or certification receipt or at the expiration of the third day after the date of mailing, whichever first occurs. The address to which notices to a recipient party shall be sent shall be the address last provided by the recipient party or, if no such address exists, to the address of such recipient party at the Open Space Property or its portion of the Residential Property, as applicable, or, if no such address exists, to the last known address of such recipient party. The initial addresses for notices under this Agreement are as follows:

Grantor: Clear Creek OS, LLC
Attn: Matthew Taylor
199 Old Clear Creek Road
Carson City, Nevada 89705
Telephone: (805) 455-6661
Email: mht@amcapgrp.com

Grantee: Clear Creek Residential, LLC
Attn: Matthew Taylor
199 Old Clear Creek Road

Carson City, Nevada 89705
Telephone: (805) 455-6661
Email: mht@amcapgrp.com

Any party hereto may from time to time, by notice in writing served upon the others as aforesaid, designate a different address to which or a different person to whose attention all such notices or demands are thereafter to be addressed.

6.16 **No Partnership.** The provisions of this Agreement do not create any partnership, joint venture, or other legal entity between the parties hereto.

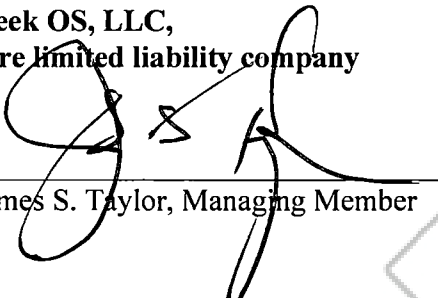
6.17 **Dedication.** Grantor hereby acknowledges and agrees that each Grantee may, from time to time and without any further approval or consent from Grantor, dedicate to Douglas County, the United States Postal Service, or any Public Utility any improvement constructed and/or installed by such Grantee upon the Easement Area pursuant to its rights hereunder. Any such dedication, upon acceptance by Douglas County, the United States Postal Service, or the applicable Public Utility, shall be deemed to include an assignment to Douglas County, the United States Postal Service, or the applicable Public Utility of Grantee's easement rights hereunder, which rights shall be deemed assigned on a non-exclusive basis with such Grantee and without diminishing such Grantee's rights hereunder; provided, however, that no such assignment shall relieve the applicable Grantee of its obligations hereunder. For purposes of this Agreement, "Public Utility" means a public utility or quasi-public utility.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has executed this Agreement as of the date of notarization of that party's signature, but in each instance to be effective for all purposes as of October 26, 2016.

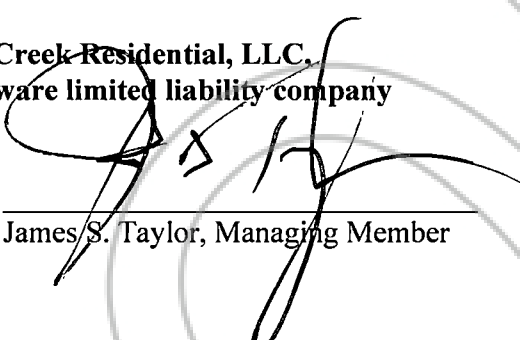
GRANTOR:

Clear Creek OS, LLC,
a Delaware limited liability company

By: 
James S. Taylor, Managing Member

GRANTEE:

Clear Creek Residential, LLC,
a Delaware limited liability company

By: 
James S. Taylor, Managing Member

STATE OF Nevada
COUNTY OF Carson City

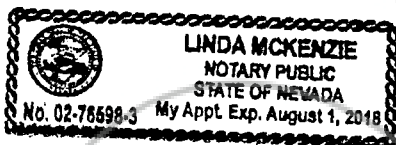
This instrument was acknowledged before me on October 24, 2016, by James S. Taylor as Managing Member of Clear Creek OS, LLC, a Delaware limited liability company.



Linda McKenzie
Notary Public
My Commission Expires: 8-1-2018

STATE OF Nevada
COUNTY OF Carson City

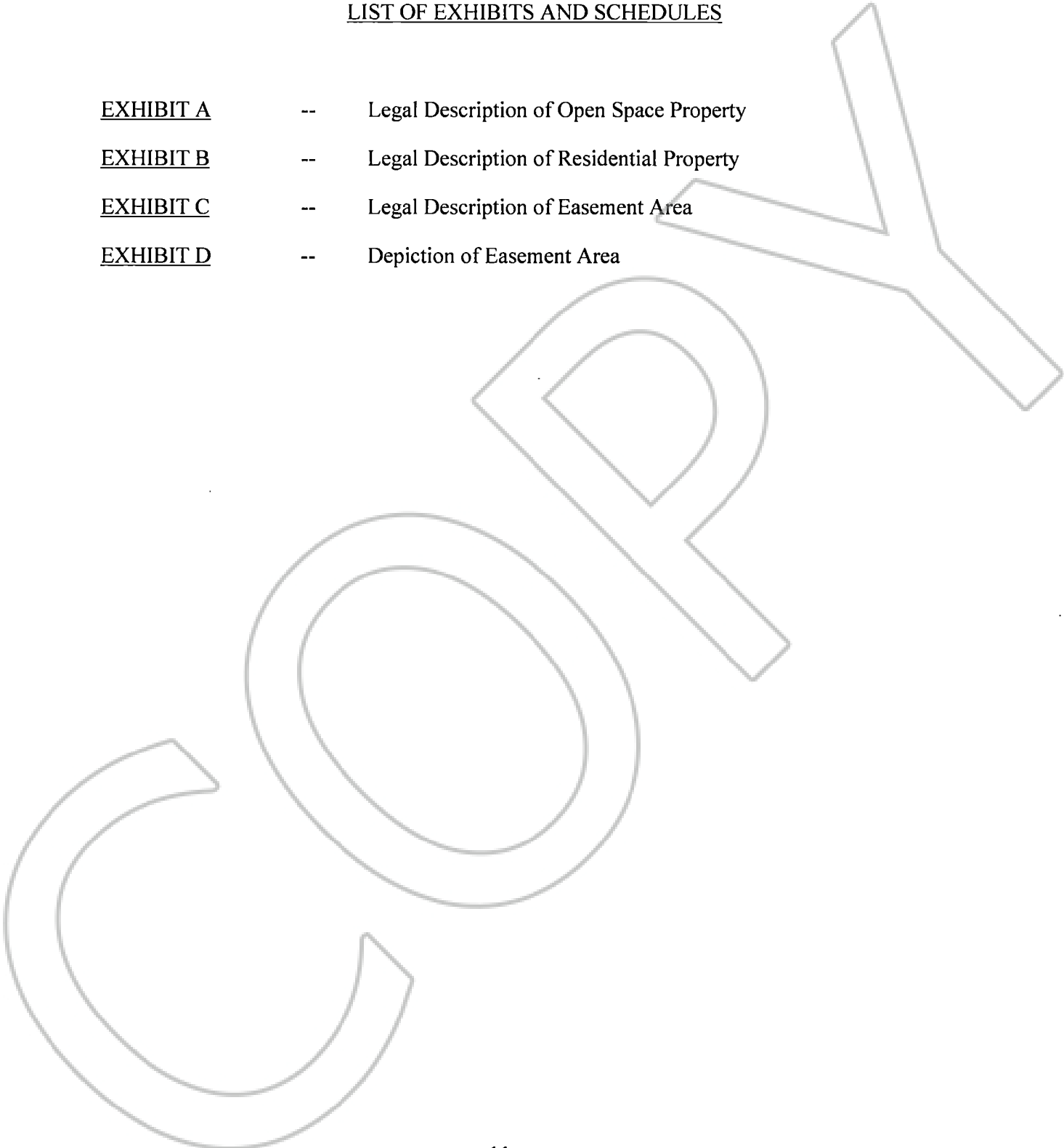
This instrument was acknowledged before me on October 24, 2016, by James S. Taylor as Managing Member of Clear Creek Residential, LLC, a Delaware limited liability company.



Linda McKenzie
Notary Public
My Commission Expires: 8-1-2018

LIST OF EXHIBITS AND SCHEDULES

- EXHIBIT A -- Legal Description of Open Space Property
- EXHIBIT B -- Legal Description of Residential Property
- EXHIBIT C -- Legal Description of Easement Area
- EXHIBIT D -- Depiction of Easement Area



**EXHIBIT A
LEGAL DESCRIPTION OF OPEN SPACE PROPERTY**

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

Parcel 3 as shown on that Boundary Line Adjustment/Record of Survey (BLA/ROS) Map Document No. 725936 and described in Deed Document No. 725935 filed in the Official Records of Douglas County, Nevada, on June 27, 2008.



EXHIBIT B
LEGAL DESCRIPTION OF RESIDENTIAL PROPERTY

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

Parcels 8, 17, and 18 as shown on that Boundary Line Adjustment/Record of Survey (BLA/ROS) Map Document No. 725936 and described in Deed Document No. 725935 filed in the Official Records of Douglas County, Nevada, on June 27, 2008.



**EXHIBIT B
LEGAL DESCRIPTION OF EASEMENT AREA**

A portion of Parcel 3 as shown on that Boundary Line Adjustment/Record of Survey (BLA/ROS) Map Document No. 725936 and described in Deed Document No. 725935 filed in the official records of Douglas County, Nevada on June 27, 2008, being more particularly described as follows;

BEGINNING at a point of reverse curve on the line common to Parcel 17 and Parcel 3 of said BLA/ROS, from which the Northwest Corner of Section 3, Township 14 North, Range 19 East, Mount Diablo Base and Meridian bears North 24°28'25" West, 1462.66 feet;

THENCE departing said common line, South 36°01'22" West, a distance of 39.50 feet;

THENCE South 10°07'59" East, a distance of 33.98 feet;

THENCE South 21°03'42" West, a distance of 28.07 feet;

THENCE South 66°00'39" West, a distance of 61.86 feet;

THENCE North 68°17'13" West, a distance of 107.27 feet to a point of reverse curve on said common line between Parcel 17 and Parcel 3 and the beginning of a curve to the left, from which the radius point bears North 06°21'20" West, a radial distance of 352.00 feet;

THENCE Northeasterly along the arc of said curve, through a central angle of 32°50'41", a distance of 201.78 feet; to the POINT OF BEGINNING.

Containing 7,432 square feet or 0.17 acres, more or less.

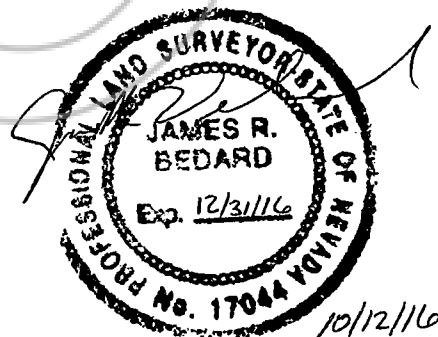
BASIS OF BEARINGS: Identical to that of Record of Survey/Boundary Line Adjustment Map Document No. 725936 recorded June 27, 2008, official records of Douglas County, Nevada.

SURVEYOR'S CERTIFICATE

I hereby certify that the attached easement description was prepared by me or under my direct supervision and is accurate to the best of my knowledge and belief.

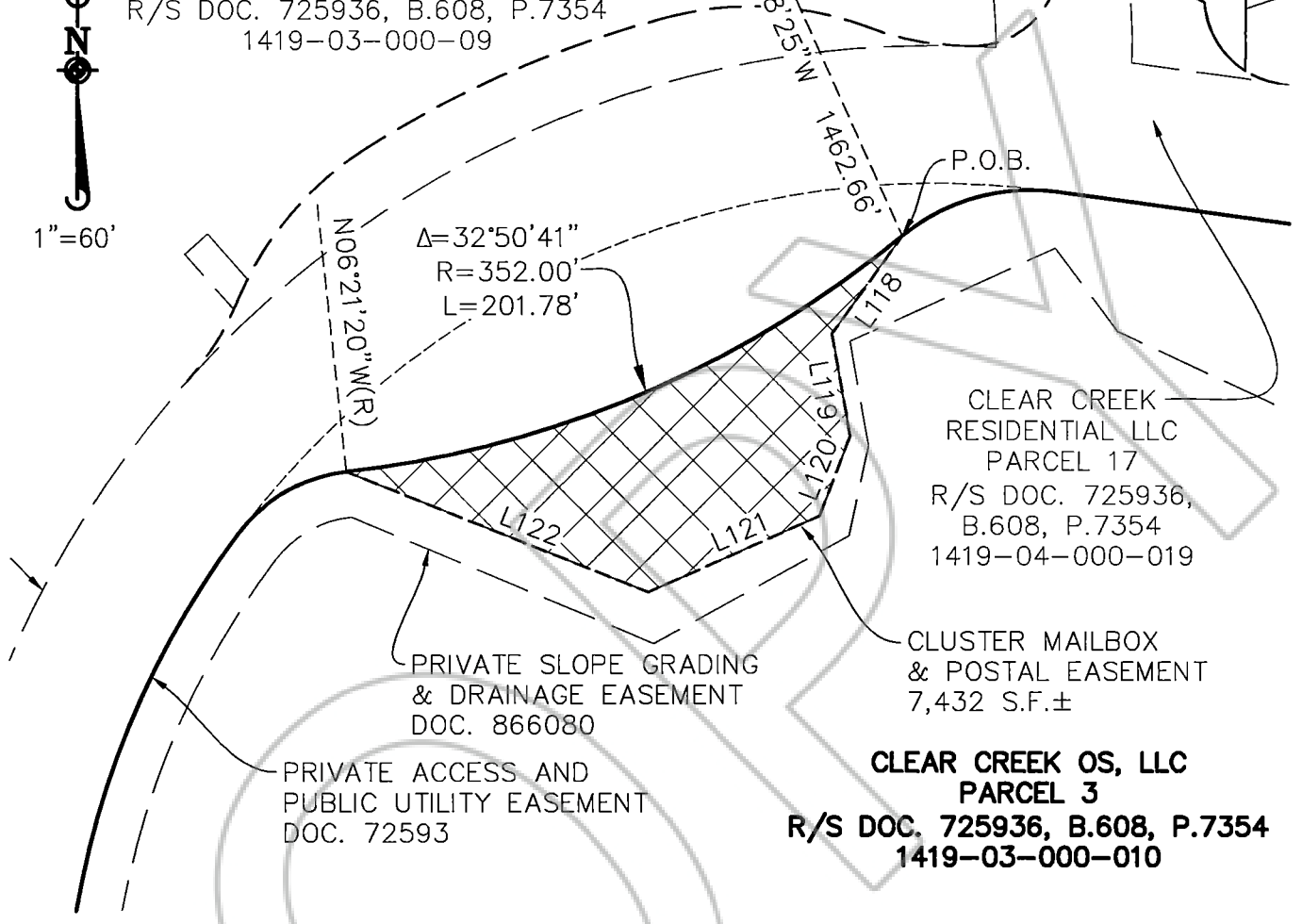
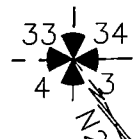
James R. Bedard
Nevada PLS 17044
For and on behalf of

 **Manhard**
CONSULTING
9850 DOUBLE R BLVD, SUITE 101
RENO, NEVADA 89521
(775) 743-3500





CLEAR CREEK RESIDENTIAL LLC
 PARCEL 5
 R/S DOC. 725936, B.608, P.7354
 1419-03-000-09



$\Delta = 32^{\circ}50'41''$
 $R = 352.00'$
 $L = 201.78'$

P.O.B.
 CLEAR CREEK RESIDENTIAL LLC
 PARCEL 17
 R/S DOC. 725936,
 B.608, P.7354
 1419-04-000-019

PRIVATE SLOPE GRADING
 & DRAINAGE EASEMENT
 DOC. 866080

PRIVATE ACCESS AND
 PUBLIC UTILITY EASEMENT
 DOC. 72593

CLEAR CREEK OS, LLC
 PARCEL 3
 R/S DOC. 725936, B.608, P.7354
 1419-03-000-010

BASIS OF BEARINGS
 IDENTICAL TO THAT OF
 ROS/BLA MAP NO.
 725936, BK. 608, PAGE
 7354 OFFICIAL RECORDS
 OF DOUGLAS COUNTY,
 NEVADA

LEGEND
 ——— SUBJECT PROPERTY LINE
 - - - - - EASEMENT AREA
 - - - - - ADJACENT PROPERTY
 P.O.B. POINT OF BEGINNING
 (R) RADIAL

LINE TABLE		
LINE #	DIRECTION	LENGTH
L118	S36°01'22"W	39.50'
L119	S10°07'59"E	33.98'
L120	S21°03'42"W	28.07'
L121	S66°00'39"W	61.86'
L122	N68°17'13"W	107.27'



9850 Double R Blvd, Suite 101, Reno, NV 89521 tel: (775) 746-3500 fax: (775) 746-3520 www.manhard.com
 Civil Engineers • Surveyors • Water Resources Engineers • Water & Wastewater Engineers
 Construction Managers • Environmental Scientists • Landscape Architects • Planners

CLEAR CREEK OS, LLC	
DOUGLAS COUNTY, NEVADA	
POSTAL EASEMENT	
PROJ. MGR.: MAR	SHEET
DRAWN BY: JRB	EXHIBIT D
DATE: 07/11/2016	CCPDCN 130470
SCALE: 1"=60'	