

23

APN: 1320-32-614-002

RECORDING REQUESTED BY AND
MAIL TO:

Jenuane Communities The Ranch LLC
10625 Double R Boulevard
Reno, NV 89521



KAREN ELLISON, RECORDER

ACCESS AND SPILLWAY MAINTENANCE EASEMENT

THIS Access and Spillway Maintenance Easement (“Easement”) is entered into this 16 day of November, 2016, by and between the Grantor, the Town of Gardnerville Nevada, a political subdivision of the State of Nevada and the County of Douglas, by and through its Manager, Thomas A. Dallaire (“Grantor”) and Jenuane Communities The Ranch LLC, by and through its Manager, Kenneth Hendrix, (“Grantee”). Grantor and Grantee are sometimes individually referred to as “Party” and may collectively be referred to as “Parties.”

WITNESSETH

WHEREAS, Grantor is the owner of certain real property located in Douglas County, Nevada, commonly identified as Douglas County Assessor’s Parcel No. 1320-32-614-002, more particularly described in Exhibit A and depicted on Exhibit B attached hereto and incorporated herein by this reference; and

WHEREAS, Grantor desires to grant, and Grantee desires to acquire, a perpetual non-exclusive access and spillway maintenance easement over, through and under those portions of the property depicted, and more particularly described, in Exhibits A and B (“Easement Area”).

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

1. **Recitals:** The foregoing recitals are true and correct and are incorporated herein.
2. **Grant of Easement:** The Grantor hereby grants and conveys to the Grantee a perpetual non-exclusive, rent free, access and spillway maintenance easement over, through and under the Easement Area for the following purposes:

a. The maintenance and repair (including necessary replacement and reconstruction) of the improvements constructed by Grantee located within the Easement Area and any appurtenances reasonably connected and contiguous thereto, including, without limitation, a storm water retention basin, emergency spillway and rip-rap apron and ditches. The maintenance and repair required of the improvements constructed by Grantee shall be performed and paid for by the Grantee; provided, however, that the Grantor shall have the right, should the Grantee, after thirty (30) days written notice provided by Grantor specifying the maintenance or repair needed, neglect, refuse or fail to maintain and repair the improvements within the Easement Area, to enter the Easement Area and conduct such maintenance and repair (including necessary replacement and reconstruction) of the improvements located within the Easement Area and any appurtenances reasonably connected or contiguous thereto. Should Grantor maintain and repair the improvements located within the Easement Area, the cost of such maintenance and repair shall be paid by Grantee within thirty (30) days of the submission by Grantor of an invoice reflecting such maintenance and repair expenses. The Easement Area shall not be materially changed by Grantee without the written consent of the Grantor; and

b. Grantee shall have such access, ingress and egress over the Easement Area as approved before hand by Grantor as may be necessary or useful to enjoy the foregoing rights.

3. **Use of Easement:** The purpose of this Easement is to provide year round access, upon approval by Grantor, to Grantee for spillway access over, through and under the Easement Area for the operation of Grantee's improvements, including, without limitation, spillways, retention basin and emergency rip-rap apron. Nothing in this Easement is intended to prohibit the use of the Easement Area by Grantor provided such use does not interfere with the use of the Easement by the Grantee.

4. **Improvements:** Grantee shall have the right to construct, at its sole expense, improvements within the Easement Area suitable for the uses delineated in this access and spillway maintenance easement, including, but not limited to, the grading and clearing of the Easement Area. Grantor shall not be obligated to install any of these improvements, but Grantor shall be afforded the right to install improvements in the event that the Grantee, after thirty (30) days written notice provided by Grantor specifying the improvements needed, neglects, refuses or fails to do so. Any improvements constructed by Grantor shall be reimbursed by the Grantee within thirty (30) days of submission of an invoice of the cost of such improvements. Any improvements within the Easement Area made by the Grantee shall be subject to the prior approval of the Grantor.

5. **Maintenance:** Grantee shall be responsible for maintaining the spillway improvements within the Easement Area to the extent necessary for the uses described in this Easement; provided, however, that Grantor, after thirty (30) days written notice provided by Grantor specifying the maintenance needed, may maintain the spillway improvements within the Easement Area in the event that the Grantee neglects, refuses or fails to do so. The cost of such

Grantor maintained spillway improvements shall be reimbursed to Grantor within thirty (30) days of the submission of an invoice reflecting the cost of such maintenance incurred by Grantor.

6. **Indemnity:** Each Party to this Agreement hereby agrees that such Party (the "Indemnifying Party") shall defend, protect, indemnify, and hold harmless each other Party (the "Protected Party") from and against any and all damages, losses, expenses, and fines based upon any claim of personal injury or property damage occurring during the term of this Agreement and resulting from the Indemnifying Party's use of, construction upon, or maintenance of, the Easement Area or the Improvements, except to the extent arising from the Protected Party's own negligence or misconduct, or that of the Protected Party's agents, tenants, licensees, or invitees. In the event that the Protected Party receives notice of any claim potentially implicating the Indemnifying Party's duties under this Section 6, the Protected Party shall inform the Indemnifying Party of the claim as soon as is reasonably possible, and in any event within ten (10) days of receiving notice of such claim. The Protected Party's failure to timely inform the Indemnifying Party of a claim shall waive the Protected Party's rights under this Section 6 as to that claim.

7. **Easement Runs with Land; Successors and Assigns:** The easement created in this Agreement is perpetual in nature, appurtenant to the Dominant Property, and shall run with the Dominant Property and benefit any owner of any portion of the Dominant Property in perpetuity. The provisions of this Agreement shall be binding upon the successors and assigns of Grantor and Grantee. Grantor and Grantee shall be responsible for their respective obligations that accrue during their ownership of the Dominant Property and the Servient Property; provided, however, in the event that either Party conveys, transfers, assigns, or otherwise disposes of all of its interest in the property described in Exhibits "A" and "B" to this Easement, the transferring party shall be released and discharged from any liabilities and obligations under this Agreement that occur after such transfer.

8. **Notices:** All communications which may be, or are required to be, given by either Party to this Agreement shall be properly given if made in writing and sent by: (a) hand delivery; (b) certified mail, return receipt requested; (c) facsimile, provided a confirming copy thereof is also sent in accordance with (a), (b), or (d); or (d) Federal Express or another nationally recognized overnight delivery service for next business day delivery, with all postage, delivery, and other charges paid by the sender and addressed to Grantors or Grantees, as applicable, as follows, or at such other address as each may request in advance in writing. Such notices shall be deemed delivered: (i) by hand, upon actual delivery; (ii) by overnight delivery service, on the next business day after the notice is sent; (iii) by facsimile, on the next business day after the date the notice is sent; and (iv) if mailed, upon the earlier of actual receipt or three (3) business days after mailing. Refusal of delivery shall be deemed effective delivery. Unless changed as provided in this Section, notice addresses are as follows:

If to Grantor:

Town of Gardnerville
Attn: Thomas A. Dallaire
1407 Hwy 395
Gardnerville, NV 89410
Telephone: 775-782-7134
Facsimile: 775-782-7135

If to Grantee:

Jenuane Communities The Ranch LLC
Attn: Kenneth Hendrix, Manager
10625 Double R Blvd.
Reno, NV 89521
Telephone: (755) 473-4215
Facsimile: (775) 657-8902

9. **Damage to Easement Property:** The Grantor and Grantee shall be responsible for any damage each may cause to the improvements within the Easement Area. The Party responsible for such damage shall promptly make all needed repairs, restoring the Easement Area and improvements thereon to its condition prior to the damage.

10. **Obstructions to Use of the Easement Property:** Neither the Grantor nor the Grantee or any person permitted to use the Easement Area under the terms of this Easement may utilize the Easement Area in any way that interferes with its use by any person permitted to use it. Any obstructions or impediments to the use of the Easement Area may be removed, without notice, by the Grantor or the Grantee and the cost of such removal shall be borne by the party responsible for such obstruction.

11. **Enforcement of Agreement:** The Grantor and Grantee shall have the right to legally enforce this Easement and the covenants, conditions and restrictions set forth herein, by whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.

12. **Amendments:** This Easement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both Grantor and Grantee.

13. **Breach Shall Not Permit Termination:** No breach of this Easement shall entitle either party to terminate this Easement or to bring any action for termination; provided, however, that such limitation shall not impact any other rights that may be available to such party.

14. **Severability:** If any provision or specific application of this Easement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Easement shall remain valid and binding.

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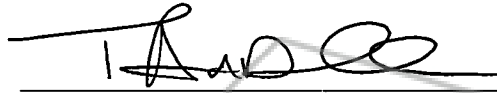
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IN WITNESS WHEREOF, the Grantor has agreed to and executed this Access and Spillway Maintenance Easement this 16 of November, 2016.

DATED this 16 day of November, 2016.

GRANTOR:
Town of Gardnerville, by and through its Manager



By: Thomas A. Dallaire
Its: Manager

ACKNOWLEDGEMENT

STATE OF NEVADA)
) ss.
COUNTY OF DOUGLAS)

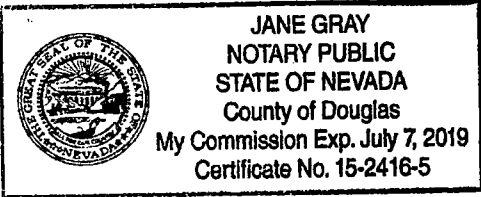
On November 16, 2016, before me, the undersigned, a Notarial Officer in and for said County and State, personally appeared the Town of Gardnerville, by and through its Manager, Thomas A. Dallaire, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

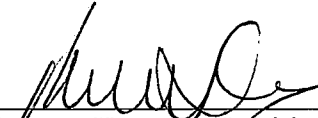

NOTARIAL OFFICER

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Approved and accepted this 10th day of November, 2016.

GRANTEE:
Jenuane Communities The Ranch LLC


By: Kenneth Hendrix
Its: Manager

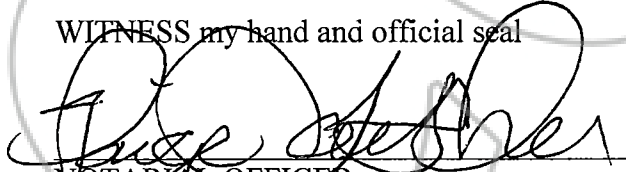
ACKNOWLEDGEMENT

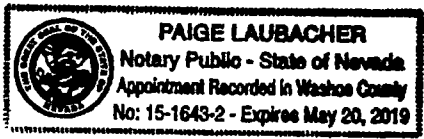
STATE OF NEVADA)
) ss.
COUNTY OF DOUGLAS)

On November 10, 2016, before me, the undersigned, a Notarial Officer in and for said County and State, personally appeared Jenuane Communities The Ranch LLC, by and through its Manager Kenneth Hendrix, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal


NOTARIAL OFFICER



COPY

Exhibit A

EXHIBIT 'A'
DESCRIPTION
Access and Spillway Maintenance Easement

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

A parcel of land located within a portion of Section 33, Township 13 North, Range 20 East, Mount Diablo Meridian, Douglas County, Nevada, more particularly described as follows:

BEGINNING at the southwest corner of Lot 'D' as shown on the Final Subdivision Map for The Ranch at Gardnerville – Phase IIA-1 filed for record June 18, 2013 in the office of Recorder, Douglas County, Nevada as Document No. 825569;

thence South 89°19'12" East, 101.94 feet;

thence South 89°20'57" East, 340.65 feet to a point on the westerly line of Gilman Avenue;

thence along said westerly line of Gilman Avenue, South 00°39'03" West, 18.00 feet;

thence leaving said westerly line of Gilman Avenue, North 89°20'57" West, 340.65 feet;

thence North 89°19'12" West, 51.94 feet;

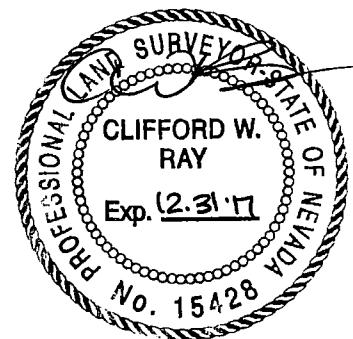
thence South 00°40'48" West, 12.00 feet;

thence North 89°19'12" West, 50.00 feet;

thence North 00°40'48" East, 30.00 feet to the POINT OF BEGINNING, containing 8,567 square feet, more or less.

The basis of bearing for this description is North 00°39'03" East, being the centerline of Gilman Avenue as shown on the Final Subdivision Map for The Ranch at Gardnerville – Phase IIA-1 filed for record June 18, 2013 in the office of Recorder, Douglas County, Nevada as Document No. 825569

Prepared By: R.O. ANDERSON ENGINEERING, INC.
P.O. Box 2229
Minden, Nevada 89423

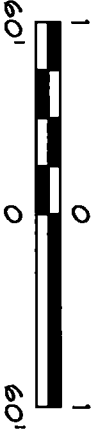


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Exhibit B

A.P.N.
1320-33-211-018
PHILLIPS, TROY E
& MEGAN M

SCALE: 1" = 60'



NEVADA
Nevada
P.O. Box 2229
Prinden, NV 89423
P 775.792.2322
F 775.792.7084

CALIFORNIA
595 Tahoe
South Lake Tahoe, CA 96160
P 530.600.1660
F 775.792.7084

RO Anderson
MIMI.RANDERSON.COM

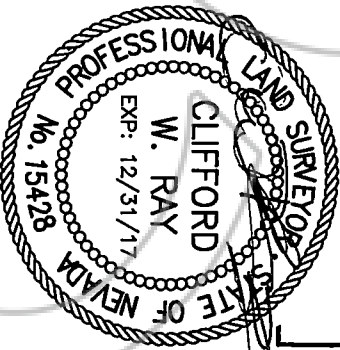
ACCESS AND SPILLWAY MAINTENANCE EASEMENT
A PORTION OF APN 1320-32-614-002
DOUGLAS COUNTY, NEVADA

EXHIBIT "B"

ACCESS AND SPILLWAY
MAINTENANCE EASEMENT
8,567 SQ.FT.

A.P.N. 1320-32-614-002
TOWN OF GARDNERVILLE

LINE	BEARING	LENGTH
L1	S69°19'12"E	101.941
L2	S89°20'57"E	340.651
L3	S00°39'03"W	18.001
L4	N89°20'57"W	340.651
L5	N89°19'12"W	51.941
L6	S00°40'48"W	12.001
L7	N89°19'12"W	50.001
L8	N00°40'48"E	30.001



GILMAN AVENUE

CONCHO TRAIL

A.P.N. 1320-33-210-069
JENNANE COMMUNITIES
THE RANCH LLC