

APN No(s). 1318-15-802-008

When recorded return to:

WESTERN ALLIANCE BANK
5335 Kietzke Lane
Reno, Nevada 89115
Attention: Glo Guisti

Escrow # 12-2566093-MU

For Recorder's Use

**SUBORDINATION, NON-DISTURBANCE AND
ATTORNMEN T AGREEMENT**

DATE: June 20, 2019

PARTIES: San Francisco Real Estate LLC, a California limited liability company, whose mailing address is PO Box 680717 Park City, UT 84068-0717 and Notice Address of 890 Main St Ste 5-101 Park City, UT 84060 ("Lessee"); WESTERN ALLIANCE BANK, an Arizona corporation, whose mailing address is set forth above ("Lender"); and Elk Point Development, LLC, a Nevada limited liability company, whose mailing address is PO Box 1370 Zephyry Cove, Nevada 89448 ("Borrower").

RECITALS

A. Lender has made a loan to Borrower in the original principal amount of One Million Eight Hundred Thousand and No/100 Dollars (\$1,800,000.00) (the "Loan").

B. As security, in part, for repayment of the Loan and performance of Borrower's obligations to Lender, Borrower has executed and delivered to Lender, among other things, that certain Deed of Trust dated as of the date hereof, which will be recorded contemporaneously with this Agreement in the official records of Douglas County, Nevada (the "Deed of Trust"), which grants to Lender a first priority lien on the real property described in Exhibit A attached hereto and made a part hereof by this reference, along with improvements, appurtenances and other property described in the Deed of Trust (real and personal) (the "Property").

C. Lessee claims an interest in a portion of the Property (the "Leased Premises") by virtue of that certain Lease Agreement made by and between Lessee and Borrower, as lessor, dated July 15, 2015, covering a portion of the Property and improvements thereon (as amended from time to time, the "Lease").

D. Lender has agreed to make the Loan to Borrower, but only if, among other things, Lessee subordinates any and all right, title, and interest it now has or hereafter acquires in and to the Property to the lien of the Deed of Trust.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") and Lender's agreement to make the Loan, the parties agree as follows:

AGREEMENT

1. Subordination. Lessee hereby completely and unconditionally subjects and subordinates any and all right, title, liens, claims, and interest it now has or hereafter acquires in and to the Property whether pursuant to the Lease or otherwise to Lender's liens on and claims against the Property. Lessee agrees that its subordination hereunder shall apply to the full extent of all principal advanced under the Loan, together with all accrued and accruing interest, and together with all other amounts secured by the Deed of Trust, including without limitation, all attorneys' fees and costs incurred by Lender in connection with the Loan or the Property. Lessee hereby agrees that the Deed of Trust and any and all claims or liens hereafter acquired by Lender in and to the Property are prior and superior to any and all right, title, claims, liens, or interest now held or hereafter acquired by Lessee in and to the Property. This subordination shall extend to any and all increases, renewals, extensions, modifications, substitutions, and consolidations of the Deed of Trust, of the Loan, and of any other documents securing the Loan, and Lender may, without notice or demand, and without affecting the subordination hereunder, (a) renew, compromise, extend, accelerate, or otherwise change the time for payment of or otherwise change the terms of the Loan or any part thereof, including, without limitation, increases or decreases in the principal amount of the Loan and the interest rate thereon, (b) waive or release any part of its lien on the Property, (c) apply proceeds from the sale of the Property and direct the order or manner of sale thereof as Lender, in its discretion, may determine, and (d) assign its rights hereunder or under the Loan, or any of them, in whole or in part. Lessee further declares, agrees and acknowledges that, in making disbursements of the Loan, Lender has no obligation or duty to, nor has Lender represented that it will, see to the application of such Loan proceeds by the person or persons to whom they are disbursed by Lender, and any application or use of such Loan proceeds for purposes other than those provided for in connection with the Loan shall not defeat the subordination made in this Agreement, in whole or in part.

2. Reliance. Lessee acknowledges that the Loan and/or any advances thereof would not have been made by Lender without the giving of this Agreement by Lessee and further acknowledges that Lender is relying upon this Agreement in making the Loan and/or advances thereof to Borrower.

3. Transfer of Lease. Any transfer or encumbrance of the Lease or Lessee's interest therein shall be subject to the terms of this Agreement. Lessee hereby agrees to notify any purchaser, assignee, or encumbrancer of the Lease of the terms of this Agreement.

4. Representations and Warranties. Borrower and Lessee represent and warrant to Lender that:

(a) The Lease is a commercial lease, is in full force and effect, and has not been amended or modified in any way; and there are no documents or written agreements between Lessee and Borrower with respect to the Lease, except those disclosed herein;

(b) Lessee is the holder of the lessee's interest under the Lease. The Lease constitutes the only agreement to which Lessee is a party, or for the benefit of Lessee, with respect to the Property. Lessee is in sole possession of the Leased Premises, and has not subleased any portion of the Leased Premises, and Lessee has all the requisite power and authority to enter into this Agreement with Lender;

(c) Lessee and Borrower are unaware of any litigation or administrative proceedings (or the existence of any state of facts that now exist that could result in any such litigation, administrative proceeding or the creation of any lien upon the Property) relating to hazardous materials, spills, leaks or potentials spills, release or leaks at the Leased Premises, or any other type of environmental contamination;

(d) Lessee has not prepaid rent except as specifically set forth in the Lease; and

(e) To the best of Lessee's and Borrower's knowledge, no uncured event of default or breach on the part of Borrower or Lessee has occurred under the Lease, and no event has occurred which gives Lessee the right to terminate the Lease or otherwise claim defenses, offsets or damages.

5. Covenants. Lessee covenants and agrees that:

(a) Lessee will not pay any installment of rent or any part thereof more than one (1) month prior to the due date of such installment;

(b) Lessee will faithfully perform all obligations of the lessee under the terms of the Lease;

(c) No extension, material modification, termination or surrender of the Lease shall be of any force or effect unless Lender has specifically consented thereto in writing; a material modification means any modification or amendment to the Lease that reduces the rent, the term of the Lease, the size of the Leased Premises or the Lessee's obligation to pay operating expenses or expense reimbursements, or other modifications or amendments that materially increase the Lessor's obligations under the Lease;

(d) Lender may enter upon the Property and inspect the same at any reasonable time upon reasonable advance notice; and

(e) Lessee will at any time and from time to time execute, deliver, and acknowledge to Lender or to any third party designated by Lender, within ten (10) days following Lender's written request therefor, a statement in writing certifying whether the Lease is in full force and effect, that there are no defenses or offsets outstanding under the Lease (or stating those claimed by Lessee, as the case may be), that Borrower is not in default thereunder (or specifying any defaults by Borrower which Lessee alleges), that rent has not been prepaid more than one (1)

month in advance, and specifying any further information about the Lessee, Lease or the Property which Lender or said third party may reasonably request.

6. Defaults. Lessee covenants and agrees to give Lender a copy of any notice of default under the Lease served upon the Borrower as landlord. Lessee further covenants and agrees that if Borrower shall have failed to cure such default within the time provided for in the Lease then Lender shall have an additional thirty (30) days to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such thirty (30) days Lender has commenced and is diligently pursuing the remedies necessary to cure such a default (including, but not limited to, commencement of foreclosure proceeding if necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued. Lessee agrees that the correction of any such default by Lender shall have the same effect and be treated as a correction by Borrower.

7. Attornment. If the interests of Borrower shall be transferred by reason of any proceeding for enforcement of the Deed of Trust, or by reason of a foreclosure or otherwise, Lessee shall be bound to the person acquiring the interests of landlord (the "Purchaser") under all of the terms, covenants, and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if the Purchaser were the lessor under the Lease. Lessee does hereby attorn to the Purchaser, including Lender, if it is the Purchaser, as its landlord, said attornment to be effective and self-operative without the execution of any further instruments upon Purchaser succeeding to the interest of the landlord under the Lease.

8. Non-Disturbance. Provided Lessee is not in default in payment of rent, taxes, utility charges, or other sums payable by Lessee under the terms of the Lease, nor in default in the performance of any other covenant or provision of the Lease or this Agreement, and provided Lessee is in possession of the portion of the Property subject to the Lease, then the right of possession of Lessee to the portion of the Property subject to the Lease shall not be affected or disturbed by Lender in the exercise of any of its rights or remedies under the Deed of Trust.

9. Direct Payment. Lessee agrees that upon receipt of written request therefor by Lender, rental payments will be made directly to Lender or its order at such place as Lender shall direct. Borrower hereby authorizes Lessee to accept such request from Lender and waives all claims against Lessee for any sums so paid at Lender's request and direction.

10. Liability of Lender. Notwithstanding anything to the contrary contained in this Agreement, Lender and its successors and assigns shall not, by virtue of this Agreement, be or become subject to any liability or obligation to Lessee under the Lease or otherwise, unless Lender or its successors and assigns shall obtain title to the Property, by foreclosure or otherwise; and, moreover, Purchaser in acquiring the interest of Borrower as a result of any such action or proceeding, and its successors and assigns, shall not be: (a) liable for any act or omission of any prior landlord under the Lease (including Borrower); or (b) liable for any damages or other relief attributable to any latent or patent defects in construction with respect to any portion of the Property; or (c) subject to any offsets or defenses which Lessee might have against any prior landlord under the Lease (including Borrower); or (d) bound by any amendment or modification of the Lease, or any assignment or sublease of the Lease, made without Lender's prior written

consent; or (e) bound by, or responsible for, any security deposit paid by Lessee (unless delivered to and held by Lender); or (f) bound by or responsible for or affected by any purchase option, right of first refusal or right of first offer contained in the Lease, which provisions shall be of no force and effect upon the Lender or its successors or assigns; (g) obligated to construct any improvements on the Property (provided that if Purchaser fails to construct improvements as required under the Lease, Lessee may terminate the Lease); (h) liable for the payment of any construction allowance or contribution towards the cost of work performed by Lessee at the Leased Premises; or (i) bound by, or responsible for, any other term or provision of the Lease which is personal to the Borrower or which may not reasonably be performed by Purchaser or its successors and assigns in the ordinary course of business. Regardless of anything in the Lease or this Agreement to the contrary, in acquiring the interest of Borrower as a result of such action or proceeding, Purchaser shall not have any obligation or liability beyond its interest in the Property. Lessee shall look exclusively to Purchaser's interest in the Property for payment and discharge of any of Purchaser's obligations under this Agreement or under the Lease. Lessee shall not collect or attempt to collect any judgment based upon such obligations out of any other assets of Purchaser. In addition, upon any sale or transfer of its interest in the Property, Purchaser shall have no further obligation under this Agreement or the Lease with respect to matters occurring after such sale or transfer. By executing this Agreement, Borrower specifically acknowledges and agrees that nothing contained in this Section shall impair, affect, lessen, abrogate or otherwise modify the obligations of Borrower to Lessee under the Lease.

11. No Assumption. Notwithstanding any other provisions contained in this Agreement, Lender does not assume any responsibility or liability for any acts or conduct by any other person, including, but not limited to, a purchaser at foreclosure or trustee's sale or grantee under deed in lieu of foreclosure.

12. Notices. Whenever and wherever in this Agreement, the Lease, or in any proceeding involving the foreclosure or attempt to foreclose pursuant to the Deed of Trust it shall be required or permitted that a notice or demand be given, such notice or demand shall be in writing and be deemed to have been given or served upon receipt or refusal of receipt after being mailed, postage prepaid, by certified, registered, or express mail, return receipt requested, or when delivered in person to the appropriate address set forth above or to such other address as may be hereafter designated by any party thirty (30) days in advance by proper notice to the other.

13. Amendments. No amendment or modification of this Agreement shall be valid or binding unless in writing, signed by the party or parties to be bound thereby.

14. No Merger. Borrower, Lessee and Lender agree that unless Lender shall otherwise consent in writing, Borrower's estate in and to the Property and the leasehold estate created by the Lease shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Borrower or Lessee or any third party by purchase, assignment or otherwise.

15. Nondisturbance Agreement. This Agreement satisfies any condition or requirement in the Lease relating to the granting of a non-disturbance agreement from Lender.

16. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall, at the option of the Lender, not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

17. Successors. This Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

19. Miscellaneous Provisions. Lender may but shall not be obligated to record this Agreement, at Lender's sole discretion.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State where the Property is located without regard to conflicts of law principles.

21. **JURY WAIVER: BORROWER HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN, THIS AGREEMENT AND ANY SECURITY INSTRUMENT OR ANY ACTS OR OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.**

[SIGNATURE PAGE FOLLOWS]

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

LESSEE:

San Francisco Real Estate LLC, a California limited liability company

By: *Lily Gulev*
Name: *Eileen Bailey*
Title: *CEO*

BORROWER:

Elk Point Development, LLC, a Nevada limited liability company

By: Its Managing Member: The SES Trust dated May 17, 2010

By: *Jean Merkelbach*
Jean Merkelbach, Trustee

LENDER:

WESTERN ALLIANCE BANK, an Arizona corporation

**SIGNED IN
COUNTERPART**

By: _____
Name: _____
Title: _____

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

LESSEE:

San Francisco Real Estate LLC, a California limited liability company

By: _____
Name: SIGNED IN COUNTERPART
Title: _____

BORROWER:

Elk Point Development, LLC, a Nevada limited liability company

By: Its Managing Member: The SES Trust dated May 17, 2010

By: SIGNED IN COUNTERPART
Jean Merkelbach, Trustee

LENDER:

WESTERN ALLIANCE BANK, an Arizona corporation

By: Pedro Azueco
Name: PEDRO AZUECO
Title: VICE PRESIDENT

UTAH NOTARY

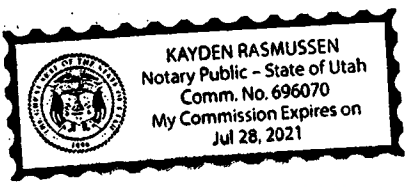
STATE OF UTAH)

COUNTY OF Salt Lake) ss.

This instrument was acknowledged before me on June 21, 2019,
by Eileen Bailey, as CFO of
San Francisco Real Estate, LLC

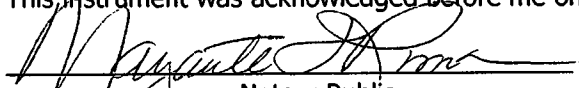
[Signature]
Signature of notarial officer

Seal



STATE OF NEVADA)
)
) :SS.
)
COUNTY OF WASHOE)

This instrument was acknowledged before me on June 24, 2019 by Jean Merkelbach



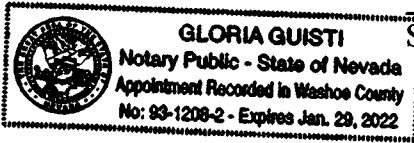
Notary Public
(My commission expires: 9-9-2021)



NEVADA NOTARY

STATE OF NEVADA)
) ss.
COUNTY OF Washoe)

This instrument was acknowledged before me on June 20, 2019,
by Pedro Azevedo, as Vice President of
Western Alliance Bank.



Seal, if any

[Signature]
Signature of notarial officer

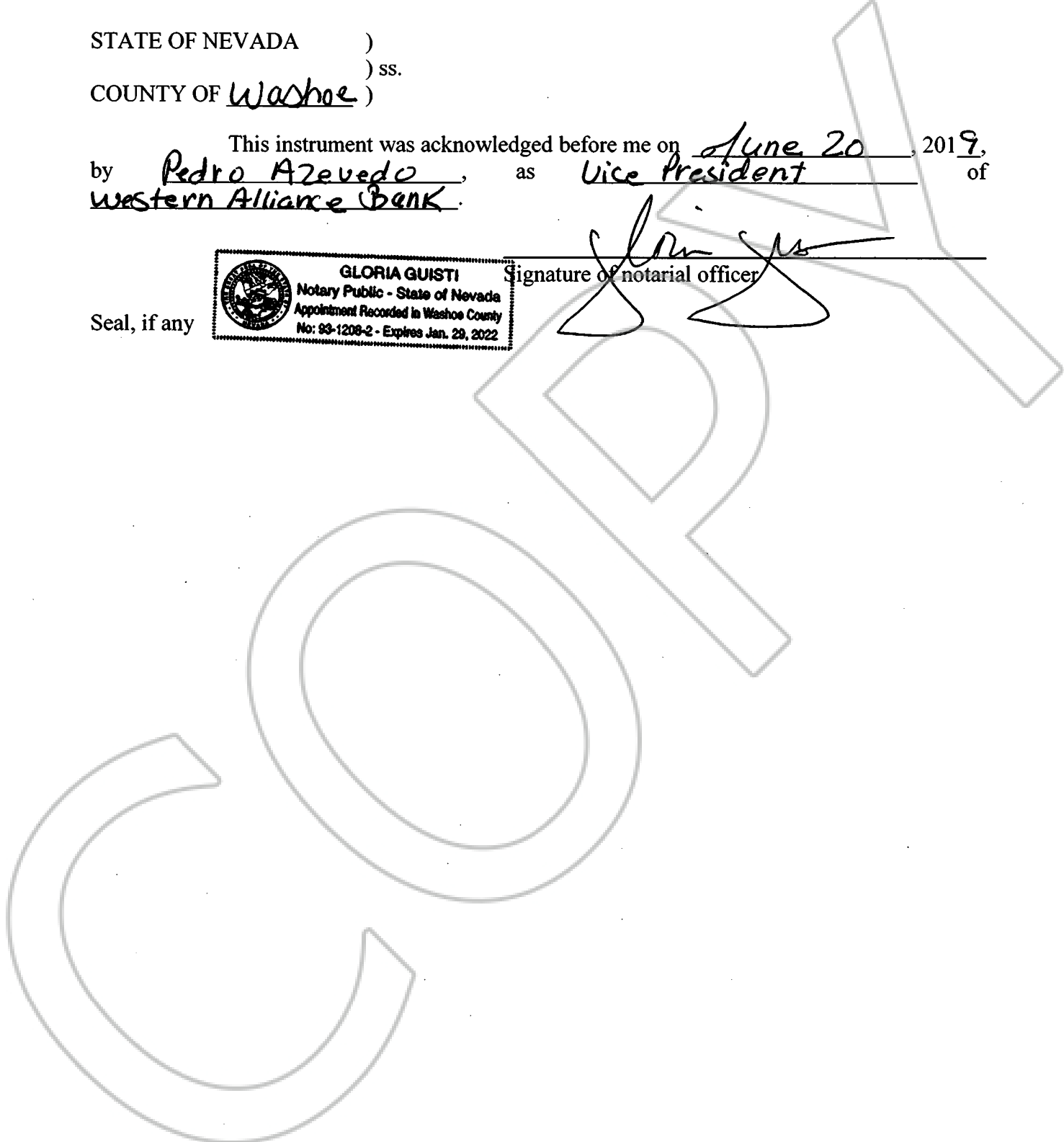




EXHIBIT 'A'

PARCEL I:

A PARCEL OF LAND LOCATED WITHIN A PORTION OF SECTION 15, TOWNSHIP 13 NORTH, RANGE 18 EAST, M.D.B.& M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15;

THENCE ALONG THE SECTION LINE COMMON TO SECTIONS 15 AND 22 NORTH 89°54'09" WEST, 1,513.39 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 50 AS DESCRIBED IN THE CONVEYANCE TO THE STATE OF NEVADA RECORDED ON JULY 18, 1933 IN THE OFFICE OF THE RECORDER OF DOUGLAS COUNTY, NEVADA IN BOOK T OF DEEDS, PAGE 436;

THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST, 674.72 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND SHOWN AS NEVADA ALLIED INDUSTRIES ON THE RECORD OF SURVEY FOR NEVADA ALLIED INDUSTRIES RECORDED SEPTEMBER 25, 1980 IN THE OFFICE OF THE RECORDER OF DOUGLAS COUNTY, NEVADA IN BOOK 980, PAGE 1969, AS DOCUMENT NO. 48927, A ROUND 3/4" IRON PIPE AND PLUG RLS 3519, THE POINT OF BEGINNING.

THENCE CONTINUING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY NORTH 47°36'00" WEST 152.81 FEET;

THENCE NORTH 43°32'23" EAST 70.01 FEET;

THENCE NORTH 47°36'25" WEST, 26.67 FEET;

THENCE NORTH 42°24'00" EAST, 63.25 FEET;

THENCE SOUTH 47°36'52" EAST, 31.73 FEET;

THENCE NORTH 42°19'21" EAST, 55.58 FEET;

THENCE SOUTH 47°36'00" EAST, 171.43 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF ELKS POINT ROAD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY SOUTH 42°24'00" WEST, 163.84 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 90°00'00", RADIUS OF 25.00 FEET AND ARC CURVE LENGTH OF 39.27 FEET TO THE POINT OF BEGINNING.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED OCTOBER 15, 2009 IN BOOK 1009, PAGE 3045, AS INSTRUMENT NO. 0752282, OFFICIAL RECORDS, DOUGLAS COUNTY, NEVADA.

PARCEL II:

THOSE CERTAIN RECIPROCAL EASEMENTS AS DESCRIBED IN DECLARATION OF RECIPROCAL EASEMENT DATED DECEMBER 18, 1998, RECORDED DECEMBER 21, 1998, IN BOOK 1298, PAGE 5054, AS DOCUMENT NO. 457043, OF OFFICIAL RECORDS OF DOUGLAS COUNTY, STATE OF NEVADA.

PARCEL III:

THOSE CERTAIN EASEMENTS AS DESCRIBED IN JOINT DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANTS OF EASEMENTS DATED SEPTEMBER 3, 2003, RECORDED SEPTEMBER 11, 2003, IN BOOK 903, AT PAGE 6055, AS DOCUMENT NO. 589683 AND RE-RECORDED SEPTEMBER 11, 2018 AS INSTRUMENT NO. 2018-919428, OF OFFICIAL RECORDS, OF DOUGLAS COUNTY, NEVADA.

