

ORIGINAL

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09/11/2008

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SNELL & WILMER LLP

Lincoln County - NV
Leslie Boucher - Recorder

Fee: \$50.00 Page 1 of 12
RPTT: Recorded By: AE
Book- 244 Page- 0282



0132586

APN: 011-200-05

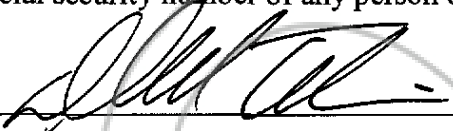
APN: 011-200-06

APN: 011-200-01

EASEMENT AGREEMENT

Affirmation Statement

D. Neal Tomlinson, the undersigned hereby affirms that the attached document, including any exhibits, hereby submitted for recording **does not contain** the social security number of any person or persons. (Per NRS 239B.030)



Signature

9/9/08

Date

GRANTEES ADDRESS AND MAIL TAX STATEMENT:

Phyllis Frias Management Trust
c/o D. Neal Tomlinson, Esq.
SNELL & WILMER L.L.P.
3883 Howard Hughes Pkwy., Ste. 1100
Las Vegas, Nevada 89169



ORIGINAL

APNs: 011-200-05, 011-200-06, 011-220-01

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

D. Neal Tomlinson
Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this "**Agreement**"), is made and entered into as of ^{September} ~~July~~ 5, 2008, by and between Joe V. Higbee, Evelyn Y. Higbee, Joe V. Higbee and Evelyn Y. Higbee, as Co-Trustees of the Higbee 1979 Trust (collectively, "**Grantor**") and Phyllis M. Frias, as Trustee of the Phyllis Frias Management Trust ("**Grantee**" and together with Grantor, the "**Parties**" and each, a "**Party**").

RECITALS

A. Joe V. Higbee and Evelyn Y. Higbee, as Co-Trustees of the Higbee 1979 Trust, are the owners of that certain parcel located in Lincoln County, Nevada, and more particularly described as assessor's parcel numbers 011-200-05 (the "**Grantor Parcel**").

B. Grantee is the owner of those certain parcels located in Lincoln County, Nevada, and more particularly described as assessor's parcel numbers 011-200-06 and 011-220-01 (the "**Grantee Parcel**"), upon which Grantee intends to develop a bed and breakfast project (the "**Project**").

C. In connection with the development of the Project, Grantee desires, and Grantor is willing to grant, a right of entry and easement in, on, over, under, across and through those portions of the Grantor Parcel as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "**Easement Area**") for the purpose of (i) vehicular and pedestrian ingress and egress between the Grantee Parcel and U.S. Highway 93; and (ii) installing certain water pipelines and related appurtenances in the Easement Area, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Recitals set forth above which are hereby incorporated by reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by and between the Parties hereto, each being legally advised in the premises and intending to be legally bound hereby, as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, and its respective successors, assigns, invitees and licensees (collectively, the "**Benefited Parties**"), a non-exclusive, perpetual right of entry and easement (collectively, the "**Easement**") in, on, over, under, across and through the Easement Area, as a servient tenement, for the purpose of (a) vehicular and pedestrian ingress and egress by the Benefited Parties, including but not limited to commercial uses, between the Grantee Parcel and U.S. Highway 93; and (b) installation, construction, operation, maintenance, repair, renewal, reconstruction and removal of water pipelines and appurtenances.



2. No Barriers. No permanent walls, fences or barriers of any kind shall be constructed or maintained on the Easement Area, or any portion thereof, which shall prevent or impair the use or exercise of the Easement granted herein without the prior written consent of Grantee.

3. Maintenance of the Easement Area. Grantee shall, at its sole cost and expense, keep and maintain the Easement Area in good order, repair and condition in compliance with all applicable laws, rules and regulations; provided, however, that if the need for maintenance or repair of the Easement Area is caused through the willful or negligent act of Grantor, its licensees, lessees or invitees, the cost of such maintenance or repair shall be paid by Grantor, upon demand, to Grantee, and if such payment is not immediately paid, the same shall be a default hereunder. Notwithstanding anything to the contrary contained in this Agreement, if the Easement Area or any portion thereof is destroyed or materially damaged by fire or other casualty, then Grantee shall have no obligation to repair or rebuild the Easement Area or any portion thereof.

4. Taxes. Grantor shall pay, prior to delinquency, all taxes, assessments and other charges levied against the Grantor Parcel for which a lien superior to the Easement rights granted under this Agreement could be imposed. Grantor may contest in good faith any tax, assessment or charge levied upon the Easement Area; provided, however, any such contested tax, assessment or charge shall be paid by Grantor prior to the time when the Easement Area can be subjected to sale under any applicable law pursuant to a proceeding which may result in impairment of the rights created under this Agreement or terminate any provision of this Agreement. Grantor shall indemnify Grantee against any loss, cost, damage, injury or expense arising out of or relating to the conduct of Grantor's contest of any tax, assessment or charge.

5. Compliance with Legal Requirements. Each Party shall at all times while this Agreement is in effect, at its sole cost and expense, comply promptly with all presently existing or hereafter enacted laws, orders, ordinances, rules, regulations and requirements of, and to keep in full force and effect all permits and licenses required pursuant to, all federal, state, municipal and local governments and their departments, agencies, commissions, boards and officers or any other body exercising similar jurisdiction and any other governmental agency having jurisdiction over the Easement Area to the extent related to Grantee's use of the Easement Area. Notwithstanding anything to the contrary contained herein, Grantee shall not be required to perform any alterations or improvements to the Easement Area, other than repairs required as a result of its acts or negligence.

6. Default; Remedies. If a Party (the "**Defaulting Party**") fails to comply with its obligations under this Agreement and (a) such failure has not been completely cured within ten business days after notice of such failure from the other Party (the "**Complaining Party**") is given to the Defaulting Party; or (b) if such failure is curable but cannot reasonably be cured within said ten business day period, the Defaulting Party fails to commence curing such failure within such ten-day period or thereafter fails to diligently pursue such cure to completion, then the Complaining Party may pursue any and all remedies available at law or in equity.

7. Eminent Domain and Condemnation.

(a) Termination of Easement. If the Grantor Parcel, Easement Area or any portion thereof becomes subject to the power of eminent domain or sold to a condemning authority such that there can be no reasonable use of some or all of the Easement Area, and no other portion of the Grantor Parcel could reasonably be re-designated for such use, then the Easement affected by such eminent domain or condemnation shall automatically terminate and the Parties shall have no further obligations



under this Agreement to the extent of such termination. Increased use of the Easement as a result of expansion or different uses on the Grantee Parcel shall not effect a termination or limitation of the Easement.

(b) Collateral Claims. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Easement Area, Grantee may file collateral claims with the condemning authority for its losses which are separate and apart from the value of the land and improvements taken from Grantor with respect to the Easement Area.

8. Covenants Run with the Land. All of the provisions, agreements, rights, powers, covenants, conditions and obligations contained in this Agreement shall be perpetual and shall be binding upon and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. The Easement is granted in favor of and appurtenant to the Grantee Parcel, and shall and is hereby deemed to run with, and burden the Grantor Parcel. The Easement shall not be transferable by Grantor, and any transfer or attempted transfer of the Easement in gross or any attempt to otherwise sever the Easement from the Grantee Parcel shall be void and without force or effect. Any person succeeding to title to the Easement Area or any portion thereof shall be considered a "Grantor" under this Agreement and shall be bound by this Agreement. Upon the transfer of fee title to the Grantee Parcel or any portion thereof, the transferor shall be relieved of all liabilities and obligations under this Agreement with respect to the property transferred to the extent such liabilities and obligations are incurred after the transfer.

9. General Provisions.

(a) Further Assurances. The Parties hereto agree to take, or cause to be taken, as promptly as practicable, all commercially reasonable actions necessary or desirable to carry out the provisions of this Agreement and to consummate and make effective the transactions and agreements provided for herein, including, without limitation, executing and delivering such documents, acknowledgments and other instruments in order to effectuate any temporary or permanent relocations of the Easement Area as necessary.

(b) No Merger. No merger of title to the Easement Area and/or the Grantee Parcel shall terminate this Agreement or otherwise render it invalid or unenforceable, unless this Agreement is terminated by recordation of an instrument of termination signed by both Grantor and Grantee.

(c) Mortgagee Protection. No breach or violation of this Agreement by any party to this Agreement, and no exercise of any remedy for such breach or violation, shall have the effect of impairing or destroying the lien of any bona fide lender or creditor of either Grantor or Grantee upon or with respect to all or any portion of the Grantor Parcel, the Easement Area or the Grantee Parcel.

(d) No Partnership. Nothing in this Agreement and no act of Grantor or the Grantee shall be deemed by Grantor, the Grantee or any third person, to create a partnership, a principal and agent relationship, or a joint venture, or any association whatsoever between Grantor and Grantee.

(e) Not a Public Dedication; Third Party Beneficiaries. Nothing herein shall be deemed or construed to be a gift or dedication of any portion of the Grantor Parcel or the Easement Area to the general public, or for any public use or purpose whatsoever, it being the intention of the Parties that this Agreement shall be strictly limited to and for the purposes herein expressed. Except as otherwise specifically provided in this Agreement, no rights, privileges or immunities of either party hereto shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the



provisions contained herein. No person other than the Parties hereto, their successors and assigns, may enforce any of the provisions of this Agreement.

(f) Notices. Except as otherwise provided in this Agreement or required by law, all notices, consents, approvals or other instruments required or permitted to be given by any Party pursuant to this Agreement shall be in writing and given by (i) hand delivery; (ii) facsimile; (iii) express overnight delivery service; or (iv) certified or registered mail, postage prepaid, return receipt requested, and shall be deemed to have been delivered upon (A) receipt, if hand delivered; (B) transmission, if delivered by facsimile; (C) the next business day, if delivered by express overnight delivery service; or (D) the third business day following the day of deposit of such notice with the United States Postal Service, if so sent by certified or registered mail. Notices shall be provided to the Parties at the addresses or facsimile numbers specified below or such other address or facsimile number as shall have been provided by said Party by proper notice as set forth in this Section 9(b):

If to Grantor: Higbee 1979 Trust
P.O. Box 0545
Alamo, NV 89001
Attn: Joe V. Higbee and Evelyn Y. Higbee, Co-Trustees

If to Grantee: Phyllis Frias Management Trust
5010 S. Valley View Blvd.
Las Vegas, NV 89118
Attn: Phyllis Frias, Trustee

With a copy to: Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
Attn: D. Neal Tomlinson

(g) Time is of the Essence. Time is of the essence of this Agreement. Notwithstanding the foregoing, if this Agreement requires any act to be done or action to be taken on a date that falls on a Saturday, Sunday or legal holiday, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding day that is not a Saturday, Sunday or legal holiday.

(h) Attorneys' Fees. In any legal, equitable or arbitration proceeding for the enforcement of or to restrain the violation of this Agreement or any provision hereof, including, but not limited to, any appeal proceedings, the prevailing party or parties shall also be entitled to an award of reasonable attorneys' fees and costs, in such amount as may be fixed by the court or the arbitrators therein.

(i) Failure to Enforce Not a Waiver of Right. The failure of any party to this Agreement entitled to enforce any provisions of this Agreement shall not constitute a waiver of the right to do so thereafter nor of the rights to enforce any other covenant, condition, restriction or easement herein provided.

(j) Captions. The captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provisions hereof.

(k) Severability. If any provision of this Agreement, or the application thereof to any person or circumstances, is found to be invalid or unenforceable with respect to any party, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to whom it is held to be invalid or unenforceable, will not be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

(l) Joint and Several Liability. If the owner of all or any portion of the Grantor Parcel, Grantee Parcel or Easement Area consists of more than one person, the liability of each such person shall be joint and several.

(m) Applicable Law. This Agreement shall be governed and construed in accordance with the internal laws of the State of Nevada.

(n) Modification and Amendment of Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof. This Agreement may not be terminated, modified or amended, except by a writing executed and delivered by all of the Parties hereto and recorded in the Office of the Recorder of Lincoln County, Nevada.

(o) Counterpart Execution. This Agreement may be executed in multiple counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

[Signature pages to follow.]



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

GRANTOR:

GRANTEE:

[Signature]
Joe V. Higbee

[Signature]
Phyllis M. Frias, Trustee of the
Phyllis Frias Management Trust

[Signature]
Joe V. Higbee, Co-Trustee of the
Higbee 1979 Trust

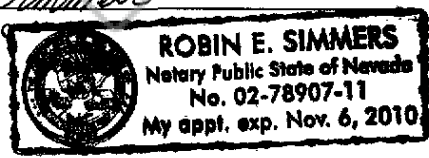
[Signature]
Evelyn Y. Higbee

[Signature]
Evelyn Y. Higbee, Co-Trustee of the
Higbee 1979 Trust

STATE OF NEVADA)
) ss:
COUNTY OF Lincoln)

This instrument was acknowledged before me on ^{September} July 5, 2008 by Joe V. Higbee in his individual capacity and as co-trustee of the Higbee 1979 Trust.

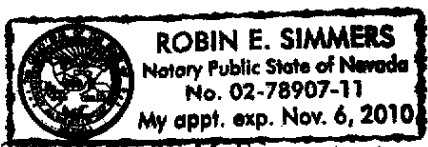
[Signature]
Notary Public



STATE OF NEVADA)
) ss:
COUNTY OF Lincoln)

This instrument was acknowledged before me on ^{September} July 5, 2008 by Evelyn Y. Higbee in her individual capacity and as co-trustee of the Higbee 1979 Trust.

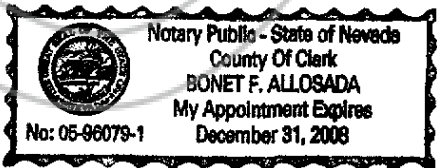
[Signature]
Notary Public



STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

This instrument was acknowledged before me on July 30, 2008 by Phyllis M. Frias as trustee of the Phyllis Frias Management Trust.

[Signature]
Notary Public





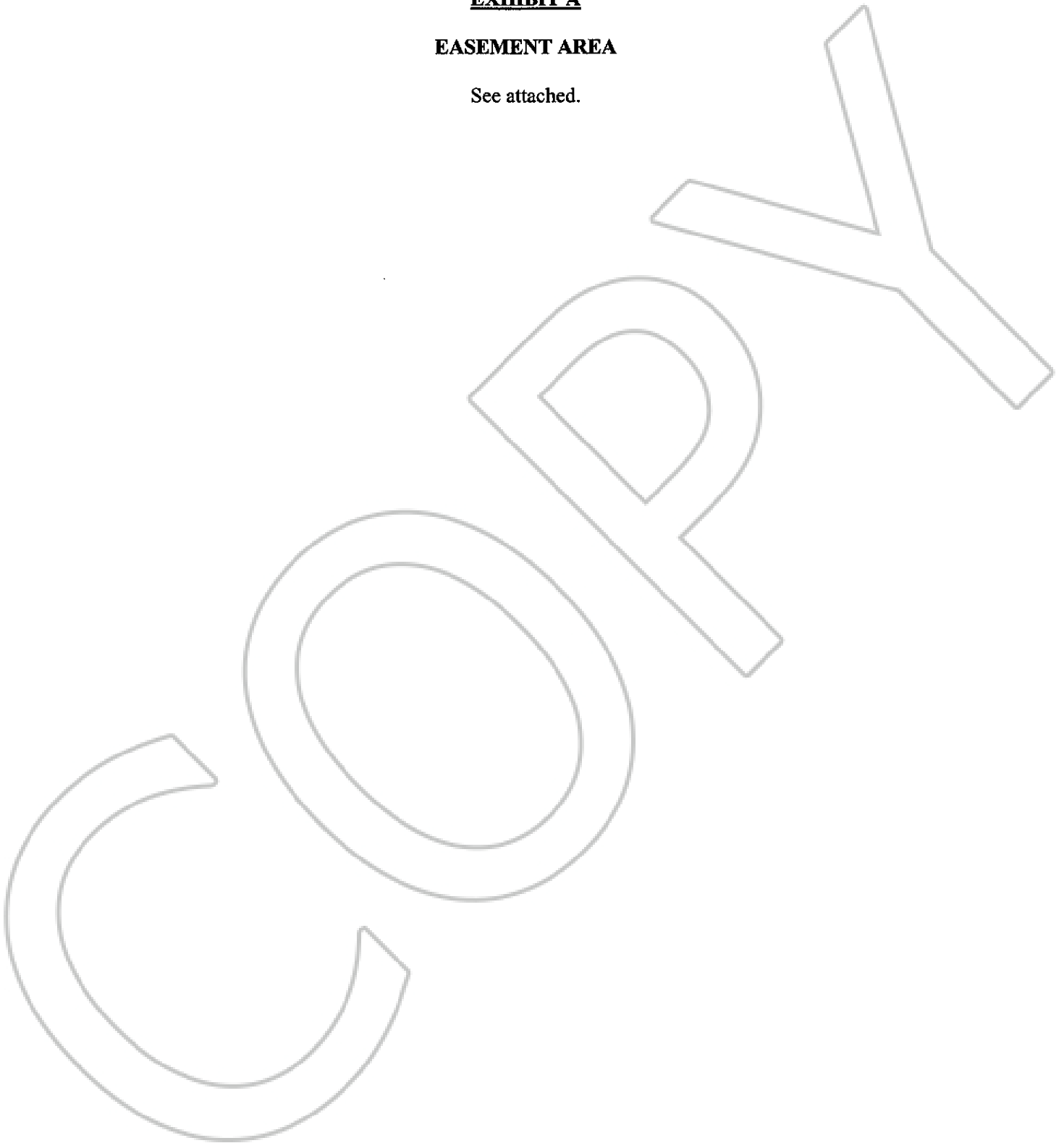
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EXHIBIT A
EASEMENT AREA

See attached.





APN 011-20-05



313 Pilot Road, Suite A, Las Vegas, Nevada 89119
Phone (702)252-3236 Fax (702)252-3247

JOB NO.: 73285
DATE: December 31, 2007
BY: EVS CKD BY: MJS
D:\Survey\Legal\73285\access1073.doc

This Legal Description Delineates a Private Ingress/Egress Easement

PROPERTY DESCRIPTION

A portion of the Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section 32, Township 6 South, Range 61 East M.D.M., more particularly described as follows:

BEGINNING at a point on the Westerly right-of-way of U. S. Route 93 from which the North Quarter corner of said Section 32 bears North 27°32'06" West, 2201.17 feet; thence along said Westerly right-of-way from a tangent which bears South 15°46'50" East, along a circular curve to the right with a radius of 9900.00 feet and a central angle of 00°13'32" an arc length of 38.95 feet; thence leaving said Westerly right-of-way from a tangent which bears South 37°40'46" West, along a circular curve to the right with a radius of 247.00 feet and a central angle of 12°25'53" an arc length of 53.59 feet; thence South 50°06'39" West, 70.04 feet; thence along a tangent circular curve to the left with a radius of 551.30 feet and a central angle of 12°43'25" an arc length of 122.43 feet; thence from a tangent which bears South 18°43'02" East, along a circular curve to the right with a radius of 2125.00 feet and a central angle of 00°23'52" and an arc length of 14.75 feet to a point on the Southerly boundary of Parcel 1 as shown on the Boundary Line Adjustment for Joe V. Higbee and Evelyn Y. Higbee, Co Trustees of the Higbee 1979 Trust Dated February 8, 1979, and Vance L. and Vickie E. Higbee, Trustees of the Higbee Family Trust Dated Feb. 3, 2002, filed in the Office of the Lincoln County Recorder on December 30, 1966 in Official Records Book C, Page 326, as Document No. 128829; thence along said Southerly boundary with a non-tangent line North 88°54'55" West, 31.83 feet; thence leaving said Southerly boundary from a tangent which bears North 18°36'31" West, along a circular curve to the left with a radius of 2095.00 feet, a central angle of 01°18'03" and an arc length of 47.56 feet to a point on the common boundary of aforementioned Parcel 1 and Parcel 2 of aforementioned Boundary Line Adjustment; thence along said common boundary with a non-tangent line North 68°46'18" East, 30.01 feet; thence leaving said common boundary from a tangent which bears South 19°55'41" East, along a circular curve to the right with a radius of 2125.00 feet, a central

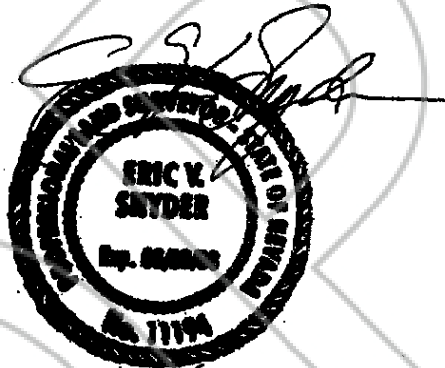


angle of 00°15'09" and an arc length of 9.36 feet; thence from a tangent which bears North 39°19'01" East, along a circular curve to the right with a radius of 581.30 feet and a central angle of 10°47'38" an arc length of 109.51 feet; thence North 50°06'39" East, 70.04 feet; thence along a tangent circular curve to the left with a radius of 217.00 feet and a central angle of 18°34'58" an arc length of 70.38 feet to the **POINT OF BEGINNING**.

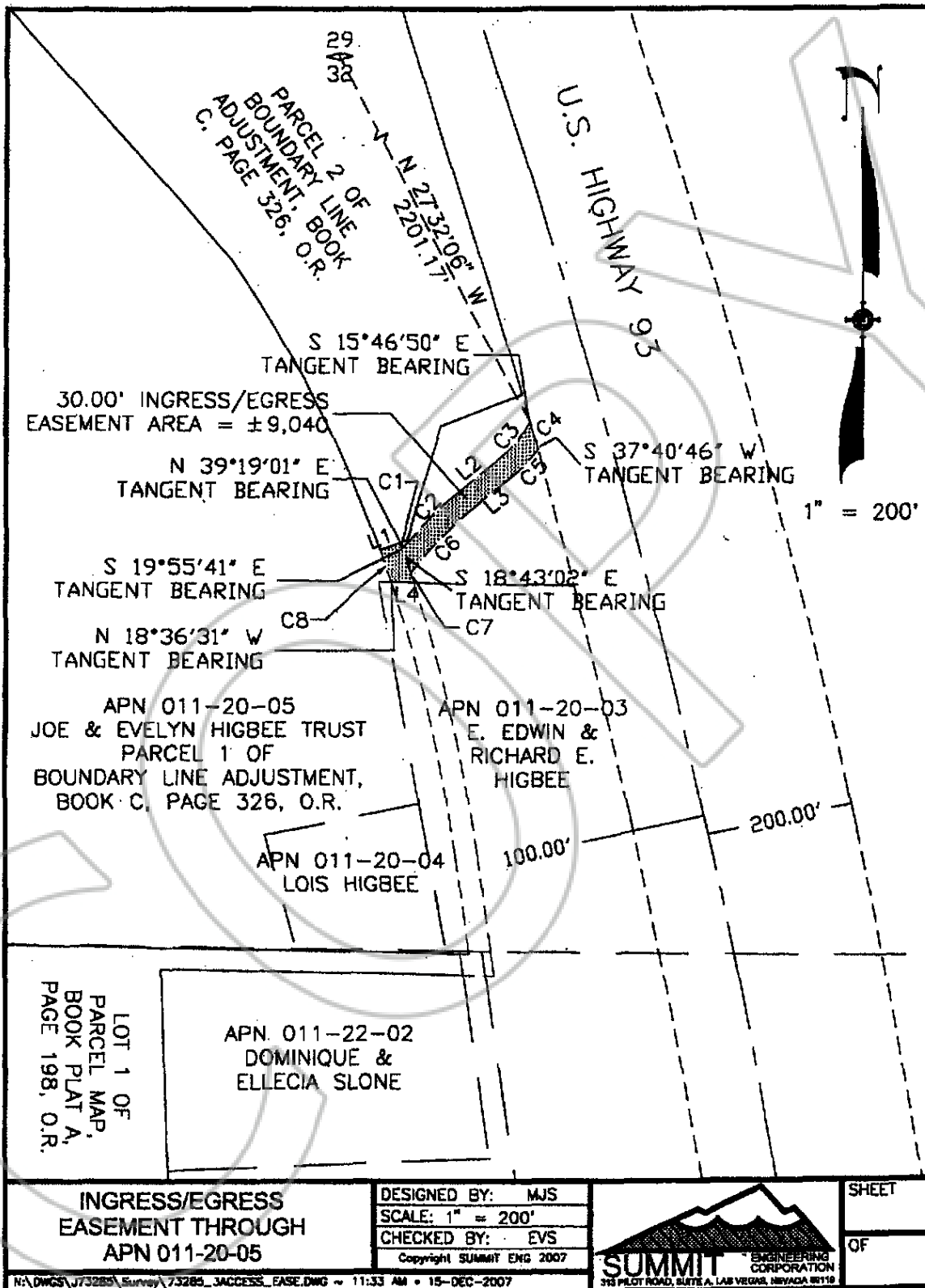
Said parcel contains an area of approximately 9,040 square feet.

BASIS OF BEARINGS

North 88°55'12" being the South boundary of Section 32, Township 6 South, Range 61 East, M.D.M., Lincoln County, Nevada.



01/03/08





LINE TABLE

LINE	BEARING	DISTANCE
L1	N 68°46'18" E	30.01
L2	N 50°06'39" E	70.04
L3	S 50°06'39" W	70.04
L4	N 88°54'55" W	31.83

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	00°15'09"	2125.00	9.36	9.36
C2	10°47'38"	581.30	109.51	109.35
C3	18°34'58"	217.00	70.38	70.07
C4	00°13'32"	9900.00	38.95	38.95
C5	12°25'53"	247.00	53.59	53.49
C6	12°43'25"	551.30	122.43	122.18
C7	00°23'52"	2125.00	14.75	14.75
C8	01°18'03"	2095.00	47.56	47.56

INGRESS/EGRESS
EASEMENT THROUGH
APN 011-20-05

DESIGNED BY: MJS
SCALE: 1" = 200'
CHECKED BY: EVS
Copyright SUMMIT ENG 2007



SHEET
OF