

RESOLUTION NO. SD15-013
OF THE BOARD OF DIRECTORS OF
NEVADA COUNTY SANITATION DISTRICT NO. 1

**APPROVAL OF AN AGREEMENT FOR THE PURCHASE OF AN
EXCLUSIVE EASEMENT AND ASSOCIATED ACCESS EASEMENT
FROM THE PENN VALLEY FIRE PROTECTION DISTRICT FOR THE
PENN VALLEY PIPELINE PROJECT AND AUTHORIZATION FOR THE
CHAIR OF THE BOARD OF DIRECTORS TO EXECUTE THE
PURCHASE AGREEMENT ON BEHALF OF NEVADA COUNTY
SANITATION DISTRICT NO. 1**

WHEREAS, the Penn Valley Pipeline Project requires acquisition of property from the Penn Valley Fire Protection District for construction of a pump station; and

WHEREAS, the acquisition of a portion of property located at 10513 Spenceville Road, Penn Valley, California, 95946, (APN: 51-160-26), consisting of approximately 10,949 square feet of exclusive easement and approximately 5,587 square feet of Permanent Access Easement, has successfully been negotiated; and

WHEREAS, the negotiated price of this property is \$15,900.00; and

WHEREAS, funds are available in budget 4772-91005-709-2000/540710.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Nevada County Sanitation District No. 1 Board of Directors finds and determines that:

1. The above recitals are true and correct.
2. The contract to acquire right of way for the purchase of approximately 10,949 square feet of exclusive easement and approximately 5,587 square feet of Permanent Access Easement, located at 10513 Spenceville Road, Penn Valley, California, 95946, (APN: 51-160-26), from the Penn Valley Fire Protection District, in the amount of \$15,900.00, plus other costs as set forth in the Purchase Agreement, is hereby approved in substantially the form attached hereto, and the Chair of the Board of Directors is hereby authorized to execute the Contract on behalf of Nevada County Sanitation District No. 1 (Sanitation District).
3. The payment of the Sanitation District's share of closing costs, including all escrow, recording and title insurance charges, if any is authorized.
4. The Director of the Department of Public Works is hereby authorized to execute on behalf of the Sanitation District any and all additional documents required to consummate this real property transaction.
5. The Director of the Department of Public Works is hereby authorized to accept conveyance of the Deed for that portion of real property located at 10513 Spenceville Road, as more fully described in Exhibits "B" and "C" of the Purchase Agreement attached hereto, and execute the certificate of acceptance on behalf of Nevada County Sanitation District No. 1 for recordation purposes.

PASSED AND ADOPTED at a special meeting of the Board of Directors of the Nevada County Sanitation District No. 1, held on the 13th day of October, 2015, by the following vote:

Ayes: Directors Nathan H. Beason, Edward Scofield, Dan Miller,
Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Directors

By: 


Edward C. Scofield, Chair

10/13/2015 cc: NCSD#1*
AC*(hold)

11/23/2015 cc: NCSD#1*
PVFPD
AC*(release)

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encumbrances, *(recorded or unrecorded)*, assessments and taxes. Clearing of any title exceptions not acceptable to SANITATION DISTRICT is the responsibility of GRANTOR.

- B. Pay all escrow, recording and title insurance charges, if any, incurred in this transaction.
- C. Have the authority to deduct and pay from the amount shown in Clause 2A above any amount necessary to satisfy any liens, bond demands and delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non delinquent assessments, which may have become a lien at the close of escrow. Current taxes, if unpaid, shall be segregated and prorated as of the close of escrow and paid from the amount shown in Clause 2A above. Close of escrow for this transaction shall be contingent upon the title company receiving deeds of reconveyance from any deed of trust or mortgage holder trustees and beneficiaries.
- D. Taxes for the tax year in which escrow closes shall be cleared and paid in the manner required by Section 5086 of the Revenue and Taxation Code, if unpaid at the at the close of escrow.

3. Payment of Deed of Trust

If the Property is secured by a mortgage(s) or deed(s) of trust, GRANTOR is responsible for payment of any demand under authority of said mortgage or deed of trust out of GRANTOR'S proceeds. Such amounts may include, but not be limited to, payments of unpaid principal and interest.

4. Escrow Instructions

GRANTOR hereby authorizes SANITATION DISTRICT to file escrow instructions in accordance with this Agreement on behalf of both parties.

5. Hazardous Waste

The acquisition price for the Property reflects the fair market value of the Property without the presence of contamination. If the Property being acquired is found to be contaminated by the presence of hazardous waste which requires mitigation under Federal or State law, the SANITATION DISTRICT may in its sole discretion elect to recover its clean-up costs from those who caused or contributed to the contamination or to terminate this Agreement immediately without further obligation to GRANTOR. GRANTOR shall further indemnify, defend, save and hold harmless the SANITATION DISTRICT from any and all claims, costs and liability, including reasonable attorney's fees, for any damage, injury or death to persons or property arising directly or indirectly from or connected with the existence of toxic or hazardous material on the property, save and except claims, costs or litigation arising through the sole willful misconduct of the SANITATION DISTRICT, its agents or employees.

GRANTOR further agrees as part of the consideration herein that GRANTOR will not, during any occupancy before or after the close of escrow, use, generate, manufacture, store, dump, bury, leak or dispose of any flammable, explosive or radioactive material, toxic substance, hazardous waste, hazardous material, hazardous substance, or the equivalent on the Property, as those terms may now or in the future be defined by common practice or by any federal, state or local statute,

ordinance or regulation or any governmental body or agency (hereinafter "Hazardous Substance"). In such event GRANTOR will, at its sole expense, remove, cleanup or otherwise mitigate such problem, and will further release and indemnify SANITATION DISTRICT from any and all liability arising from such problem.

6. Right of Possession and Use

It is agreed and confirmed by the parties hereto that, notwithstanding the other provisions in this Agreement, the right of possession and use of the subject property by SANITATION DISTRICT, and/or its designees or assignees shall commence on October 1st, 2015 or close of escrow, whichever occurs first, and that the amount shown in Clause 2A herein includes, but is not limited to, full payment for such possession and use, including interest and damages if any, from said date.

7. Binding on Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the respective heirs, successors and assigns of the parties to this Agreement.

8. No Leases

GRANTOR warrants that there are no oral or written leases on all or any portion of the property, and GRANTOR further agrees to hold SANITATION DISTRICT harmless and reimburse SANITATION DISTRICT for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of GRANTOR for a period exceeding one month.

9. Quitclaim Deeds

If any lessee interests are identified in Paragraph 8 herein, as a condition precedent to approval of this Agreement by the Board of Directors for the SANITATION DISTRICT, Quitclaim Deeds or similar releases sufficient to clear any possessory rights from the subject property will be required. GRANTOR agrees to secure said Quitclaim Deeds or releases. Close of escrow shall be contingent upon the title company receiving said Quitclaim Deeds or releases, if required by SANITATION DISTRICT.

10. Release of All Claims

GRANTOR hereby acknowledges and agrees that the receipt and acceptance by GRANTOR for the payment set forth in Clause 2(A) of this Agreement constitutes full and complete satisfaction of all claims, cost, expenses including relocation expenses, demands, damages, compensation for acquisition of property as described herein, severance damages, loss of business goodwill, interest, litigation expenses, and attorney fees, and all claims, whether asserted or alleged by GRANTOR or not, for other losses or damages recognized under law which GRANTOR could assert or allege against the SANITATION DISTRICT, as a result of the SANITATION DISTRICT's acquisition of the property described herein, including but not limited to relocation expenses and/or benefits pursuant to existing Federal and/or HCD guidelines or any other law, regulation, or guideline. GRANTOR hereby waives and releases all rights, claims, costs, expenses, demands, damages or causes of action the GRANTOR has or may have in the future against the SANITATION DISTRICT as a result of or arising out of the SANITATION

DISTRICT's acquisition of the property described herein. In furtherance of the intentions set forth herein, GRANTOR acknowledges that it is familiar with Section 1542 of the Civil Code of the State of California, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

GRANTOR hereby waives and relinquishes any right or benefit which it has or may have under Section 1542 of the Civil Code of the State of California or any similar provision of statutory or nonstatutory law of any other applicable jurisdiction to the full extent that it may lawfully waive all such rights and benefits pertaining to the subject matter of this Paragraph 10.

11. Approval of SANITATION DISTRICT

GRANTOR understands that this Agreement may be subject to approval by the Board of Directors of the SANITATION DISTRICT and, if approval is required, this Agreement shall have no force or effect unless and until such approval has been obtained.

12. Warranties

- A. GRANTOR and the signatories represent and warrant that the signatories to this Agreement are authorized to enter into this Agreement to convey real property and that no other authorizations are required to implement this Agreement on behalf of GRANTOR.
- B. GRANTOR represents that it will have at time of escrow the power to sell, transfer and convey all right, title and interest in the Property to SANITATION DISTRICT save and except for SANITATION DISTRICT approved exceptions. GRANTOR further represents that to the best of its current knowledge, the Property is not subject to any litigation proceedings, or investigation and contains no easements or interests of other parties which, if revealed or known, might materially affect the obligations or intentions of either party with respect to the objects of this Agreement. GRANTOR further represents that there are no contracts, agreements or understandings with other parties concerning the Property that GRANTOR has not disclosed in writing to SANITATION DISTRICT.
- C. GRANTOR warrants that it shall not allow any liens, encumbrances, assessments, easements, leases or taxes to accrue on the Property during the pending of its transfer to the SANITATION DISTRICT except as provided in this Agreement, nor shall GRANTOR attempt to resell the Property to any other person or entity whatsoever, during the pending of its sale to the SANITATION DISTRICT.
- D. The parties warrant that they are not represented by any real estate agents or brokers in this transaction, and that there are no commissions due as a result of its completion.

13. Notices

All notices pertaining to this Agreement shall be in writing delivered to the parties hereto by facsimile transmission, personally by hand, by courier service or express mail, or by first-class mail postage prepaid, to the addresses set forth below. All notices shall be deemed given or

GRANTOR: Penn Valley Fire Protection District
Project Name: Penn Valley Pipeline Project

APN: 51-160-26

delivered (a) if sent by mail, when deposited in the mail, first-class postage prepaid, addressed to the party to be notified, (b) if delivered by hand, courier service or express mail, when delivered, or (c) if transmitted by facsimile, when transmitted. The parties may, by notice as provided above, designate a different address to which notice shall be given.

TO GRANTOR:

TO: DIRECTOR OF PUBLIC WORKS

Name: Penn Valley Fire Protection District

Address: 950 Maidu Avenue

Address: 10513 Spenceville Rd.

Nevada City, CA 95959

Penn Valley, California, 95946

Facsimile: _____

Facsimile: (530) 265-9849

14. Entire Agreement

This Agreement constitutes the Entire Agreement between GRANTOR and the SANITATION DISTRICT pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

15. Time of the Essence

Time is of the essence in this Agreement. In the event that any date specified in this Agreement falls on a Saturday, Sunday or public holiday, such date shall be deemed to be the succeeding day on which the public agency and major banks are open for business.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Venue

An action at equity or law arising out of the subject matter of this Agreement shall be filed and tried in the County of Nevada, State of California.

18. Headings

The captions to the paragraphs of this Agreement are inserted for convenience only and shall not affect the intent of this Agreement.

19. Language Construction

The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be

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construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

20. Exercise of Discretion


Where the terms of this Agreement require approval or the exercise of discretion by GRANTOR or by the SANITATION DISTRICT, discretion shall not be exercised in an unreasonable, arbitrary, or capricious manner.

21. Specific Performance


In the event of a breach of this Agreement by GRANTOR, SANITATION DISTRICT shall be entitled to pursue any and all remedies available to it against GRANTOR, including, without limitation, claims for all damages attributable to GRANTOR'S breach, and specific performance of this Agreement.

IN WITNESS WHEREOF, the Nevada County Sanitation District No. 1 Board of Directors approves the Agreement and authorizes the Chair of the Nevada County Sanitation District No. 1 Board of Directors to execute the Agreement in duplicate on behalf of Nevada County Sanitation District No. 1 under authority of Resolution No. SD15-03, adopted by the Nevada County Sanitation District No. 1 Board of Directors on the 13th day of October, 2015, and GRANTOR has caused this instrument to be executed on their behalf:

GRANTOR:


Kurt Grundel
Chairperson, Board of Directors
Dated: 11/3/2015

**NEVADA COUNTY SANITATION
DISTRICT NO. 1:**


Honorable Edward C. Scofield
Chair, Board of Directors
Dated: 11/18/15

ATTEST:


Julie Patterson Hunter
Clerk of the Board of Directors

APPROVED AS TO FORM:
OFFICE OF THE COUNTY COUNSEL

By: 
Deputy County Counsel

NO OBLIGATION OTHER THAN SET FORTH HEREIN WILL BE RECOGNIZED

RECORDING REQUEST BY

AND WHEN RECORDED MAIL TO:

Name Nevada County Public Works Dept

Street 950 Maidu Avenue
Address

City & Nevada City, CA 95959
State

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ -0-

() computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

A.P.N. 51-160-26

Easement Deed

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

The PENN VALLEY FIRE DISTRICT,

hereby GRANT(S) to the NEVADA COUNTY SANITATION DISTRICT No. 1,

the following described easements in the Unincorporated Territory of the County of Nevada, State of California, for ingress, egress, public sewer and public utility purposes over the following area:

As described in attached Exhibit "A" and as shown on attached Exhibit "B"

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA } SS.

COUNTY OF _____

On _____ before me,
_____, Notary Public,
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Dated _____
Signature(s): _____

_____, Trustee
PENN VALLEY FIRE DISTRICT

EXHIBIT A

All that real property situated within the South Half of Section 34, Township 16 North, Range 7 East, M.D.B. & M., within the unincorporated territory of the County of Nevada and being a portion of that certain property to the Penn Valley Fire District as described in the Deed document recorded April 14, 2000 as Document No. 2000-0010418 and as shown on that certain Record of Survey Map for the Penn Valley Fire District recorded April 14, 2000 in Book 12 of Surveys at Page 181, Official Records of Nevada County, and being more particularly described as follows:

Beginning at the most westerly corner of said Penn Valley Fire District property and being a point on the centerline of Spenceville Road; thence from said Point of Beginning and along the centerline of Spenceville Road the following two (2) consecutive courses: 1) North 26° 19' 00" East, 18.39 feet, and 2) North 26° 56' 00" East, 35.00 feet; thence leaving the centerline of Spenceville Road the following four (4) consecutive courses: 1) South 63° 04' 00" East, 48.66 feet, 2) South 30° 52' 00" East, 45.95 feet, 3) South 68° 00' 00" East, 108.31 feet, and 4) South 33° 30' 00" West, 72.49 feet to a point on the southwesterly property line of said Penn Valley Fire District property; thence along the southwesterly property line of said Penn Valley Fire District property, North 52° 49' 15" West, 190.00 feet to the Point of Beginning.

The herein described property contains an area of 10,949 square feet, more or less.

The herein described property is shown on Exhibit "B" attached hereto and made a part hereof.

TOGETHER WITH an Ingress & Egress Easement over that portion of said Penn Valley Fire District land described as follows:

Beginning at a point from which the most westerly corner of said Penn Valley Fire District property bears South 26° 56' 00" West, 35.00 feet and South 26° 19' 00" West, 18.39 feet and being a point on the centerline of Spenceville Road; thence from said Point of Beginning and along the centerline of Spenceville Road North 26° 56' 00" East, 35.00 feet; thence leaving the centerline of Spenceville Road the following seven (7) consecutive courses: 1) South 63° 04' 00" East, 40.00 feet, 2) South 30° 52' 00" East, 63.54 feet, 3) South 68° 00' 00" East, 105.00 feet, 4) South 33° 30' 00" West, 25.51 feet, 5) North 68° 00' 00" West, 108.31 feet, 6) North 30° 52' 00" West, 45.95 feet, and 7) North 63° 04' 00" West, 48.66 feet to the Point of Beginning.

The herein described property contains an area of 5,587 square feet, more or less.

The herein described property is shown on Exhibit "B" attached hereto and made a part hereof.

The herein described property affects a portion of APN 51-160-26.

This description has been prepared by me, or under my direct supervision, in conformance with the Professional Land Surveyors Act, on September 10, 2015.

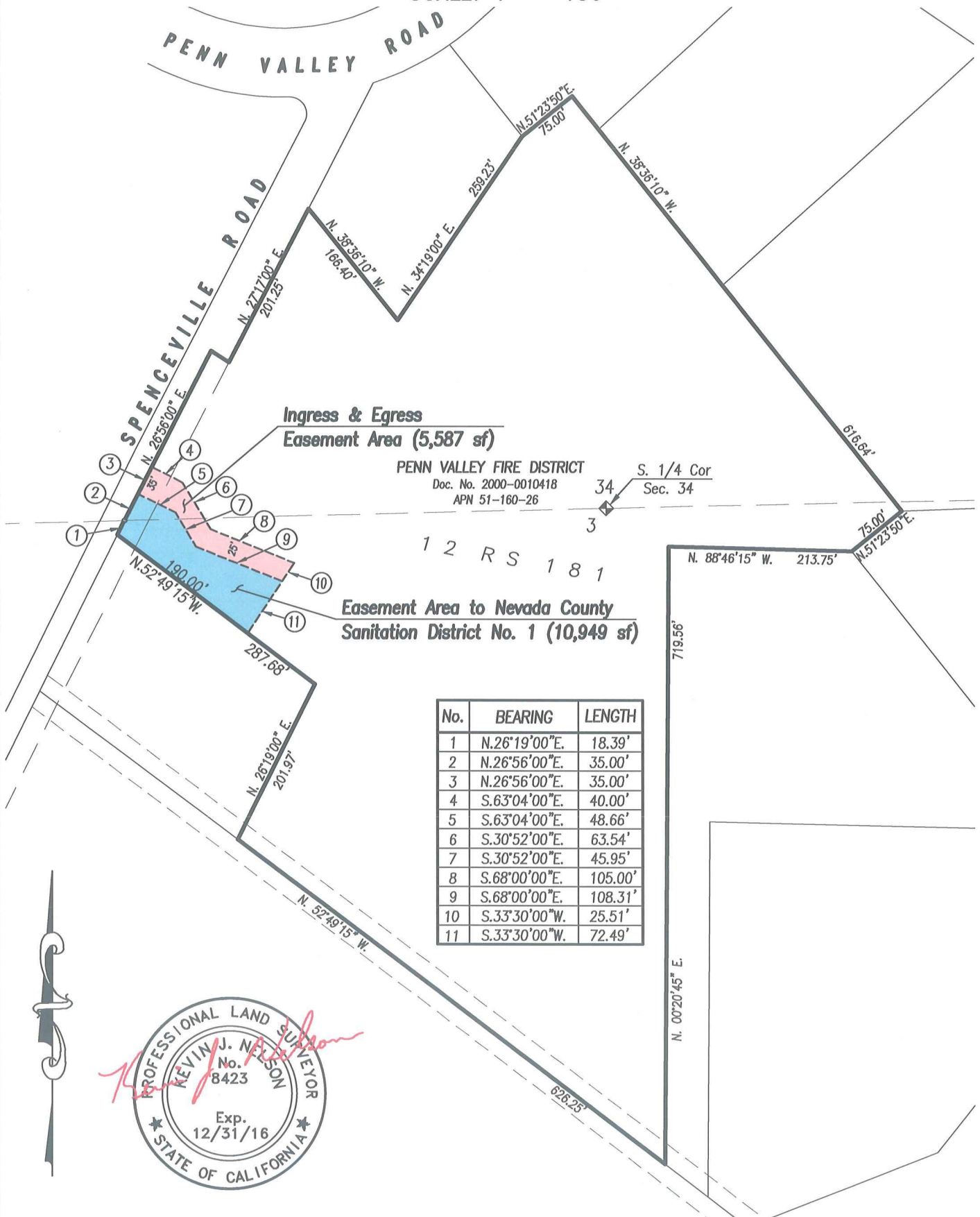


Kevin J. Nelson

Kevin J. Nelson, P.L.S. 8423
Expires 12-31-16

EXHIBIT "B"

SCALE: 1" = 150'



No.	BEARING	LENGTH
1	N.26°19'00"E.	18.39'
2	N.26°56'00"E.	35.00'
3	N.26°56'00"E.	35.00'
4	S.63°04'00"E.	40.00'
5	S.63°04'00"E.	48.66'
6	S.30°52'00"E.	63.54'
7	S.30°52'00"E.	45.95'
8	S.68°00'00"E.	105.00'
9	S.68°00'00"E.	108.31'
10	S.33°30'00"W.	25.51'
11	S.33°30'00"W.	72.49'

