



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM KS
Finance DN
DA ✓
Risk Mgt. DE
HR N/A
Other N/A

STAFF REPORT

BOARD MEETING DATE: July 14, 2015

DATE: June 18, 2015

TO: Board of County Commissioners

FROM: Trevor Lloyd, Senior Planner,
Community Services Department, 328-3620, tlloyd@washoecounty.us
Vahid Behmaram, Water Management Planner Coordinator,
Community Services Department 954-4647, vbehmaram@washoecounty.us

THROUGH: Dave Solaro, Arch., P.E., Director
Community Services Department, 328-3600, dsolaro@washoecounty.us

SUBJECT: Approve a Water Rights Deed with Assignment of Beneficial Interest to convey 125.00 acre feet of water rights held by Washoe County to the Reno Technology Park Water Company; and, approve a Water Rights Deed and Termination Agreement to re-convey 160.60 acre feet of water rights held by Washoe County to Stonefield, Inc.; and, approve a Water Rights Deed and Termination Agreement to re-convey the remaining 840.00 acre feet of water rights held by Washoe County to Patrick Properties, LLC. (Commission District 4).

SUMMARY

Washoe County is holding title to 1,125.60 acre feet of permitted water rights under a Water Rights Banking Agreement with Stonefield Inc., a Nevada Corporation. Stonefield and Washoe County desire to return the water rights and terminate the Water Banking Agreement. Of the 1,125.60 acre feet of water rights, 125 acre feet of water rights were pledged to the Reno Technology Park project and need to be conveyed to the Reno Technology Park Water Company which will provide water service to the Apple Data Center. The remainder of the water rights will be re-conveyed to Stonefield, Inc. (160.60 acre-feet) and to Patrick Properties, LLC (840.00 acre-feet), under two separate Water Rights Deed and Termination Agreements. The conveyance to Patrick Properties, LLC, an affiliate of Stonefield, Inc., is due to the fact that Patrick Properties, LLC was the entity who originally deeded the water rights to Washoe County on behalf of Stonefield, Inc.

Strategic Objective supported by this item: Economic development and diversification.

PREVIOUS ACTION

The Board of County Commissioners (Board) approved four separate water rights deeds and an "Agreement" with Stonefield Inc., which was executed by the Board Chair and recorded on May 22, 2008. This agreement is a water rights banking agreement whereby

AGENDA ITEM # 5F4

the County acknowledges receipt of 1,125.60 acre feet of permitted water rights and agrees to hold them for the benefit of Stonefield Inc. This agreement was executed in anticipation of future commercial and industrial developments within the Reno Technology Park, east of Sparks and in compliance with Article 422 of the Washoe County Development Code.

BACKGROUND

Stonefield Inc. owns several hundred acres of land east of Sparks and North of Interstate Highway 80 commonly referred to as the Reno Technology Park. Commercial and Industrial development within this area would be subject to Article 422 of Washoe County Development Code. Banking of the water rights in 2008 was in anticipation of compliance with the County Code. At the time the agreement was signed, the Stonefield property was vacant and located within the Truckee Meadows Service Area (TMSA) of the Truckee Meadows Regional Plan. The property has since been removed from the TMSA. Furthermore, proposed amendments to County Code will exempt projects such as the Reno Technology Park from provisions of Article 422.

In 2012, Stonefield Inc. sold land to Unique Infrastructure Group (UIG) and as a part of that sale, assigned its beneficial interest in 125 acre feet of water rights to UIG. UIG obtained special use permits and developed the land as the Reno Technology Park and Sparks Energy Park and constructed what is now known as the Apple Data Center. To obtain approval for the building permit for the Apple Data Center, the beneficial interest in 125 acre feet of water rights from the Stonefield account was transferred by UIG to Apple Inc., who has pledged it to the water company to serve its data center.

Reno Technology Park Water Company is a non-profit corporation approved by the Nevada Public Utilities Commission. Apple Inc. has asked the County to transfer legal title to the 125 acre feet of water rights allocated to its data center to the water company in order to receive water service to their data center. The remainder of the banked water rights will be re-conveyed to Stonefield, Inc. (160.60 acre-feet) and to Patrick Properties, LLC (840.00 acre-feet) and the 2008 water banking Agreement will be terminated. The conveyance to Patrick Properties, LLC, an affiliate of Stonefield, Inc., is due to the fact that Patrick Properties, LLC was the entity which originally deeded the water rights to Washoe County on behalf of Stonefield, Inc.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve a Water Rights Deed with Assignment of Beneficial Interest to convey 125.00 acre feet of water rights held by Washoe County to the Reno Technology Park Water Company; and, approve a Water Rights Deed and Termination Agreement to re-convey 160.60 acre feet of water rights held by Washoe County to Stonefield, Inc.; and, approve a Water Rights Deed and Termination Agreement to re-convey the remaining 840.00 acre feet of water rights held by Washoe County to Patrick Properties, LLC.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to Approve a Water Rights Deed with Assignment of Beneficial Interest to convey 125.00 acre feet of water rights held by Washoe County to the Reno Technology Park Water Company; and, approve a Water Rights Deed and Termination Agreement to re-convey 160.60 acre feet of water rights held by Washoe County to Stonefield, Inc.; and, approve a Water Rights Deed and Termination Agreement to re-convey the remaining 840.00 acre feet of water rights held by Washoe County to Patrick Properties, LLC."

APN: N/A (Water Rights)

WHEN RECORDED, MAIL TO:

Reno Technology Park Water Company
180 Country Estates Circle
Reno, NV 89511

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040.

(Rev. 2/3/2015 #3)

WATER RIGHTS DEED
WITH ASSIGNMENT OF BENEFICIAL INTEREST

I.
Recitals.

WHEREAS:

A. WASHOE COUNTY, a political subdivision of the State of Nevada (“**County**”), received fee title to a certain 1,125.60 acre feet of permitted ground water rights via collective grants and conveyances from (i) TRI General Improvement District (Deed recorded as Document No. 3653028, Official Records, Washoe County, Nevada) on behalf and for the benefit of STONEFIELD, INC., a Nevada corporation (“**Stonefield**”), (ii) Patrick Properties LLC (Deed recorded as Document No. 3653031, Official Records, Washoe County, Nevada) on behalf and for the benefit of Stonefield, (iii) TRI Water & Sewer Co (Deed recorded as Document No. 3653030, Official Records, Washoe County, Nevada) on behalf and for the benefit of Stonefield, and (iv) Stonefield (Deed recorded as Document No. 3653029, Official Records, Washoe County, Nevada);

B. Stonefield and County entered into a certain water banking agreement with respect to such conveyed water rights, which agreement was recorded as Document 3653032, on May 22, 2008, Official Records, Washoe County, Nevada (the “**Stonefield Banking Agreement**”). The Stonefield Banking Agreement reserved to Stonefield an assignable beneficial interest to receive such water rights back from the County to the extent they have not been committed to back up a project “will serve” letter from the County.

C. In connection with the development of a project known as the Reno Technology Park east of Sparks, Nevada, Stonefield assigned a beneficial interest to 125 acre feet of water rights (from permits # 75838 and 75841 and more particularly described in **Exhibit “A”** hereto) to UNIQUE

INFRASTRUCTURE GROUP LLC, a Nevada limited liability company (“**UIG**”), under an “Assignment of Beneficial Interest In Water Rights Held by Washoe County” dated on or about October 22, 2012, which was acknowledged and agreed to by County; and UIG simultaneously assigned the same beneficial interest in 125 acre feet of water rights to APPLE INC. under an “Assignment of Beneficial Interest In Water Rights Held by Washoe County” dated on or about October 22, 2012, which was acknowledged and agreed to by County (collectively, the “**Apple Assignments**”);

D. RENO TECHNOLOGY PARK WATER COMPANY, a Nevada non-profit corporation (“**RTP Water Co.**”) was formed to provide water service to the Reno Technology Park, and the parties desire for County to transfer its legal title to the 125 acre feet of water rights described in **Exhibit “A”** attached hereto to RTP Water Co.; and in order to provide a merger of such conveyed legal title with the beneficial interest of APPLE INC. under the Apple Assignments, APPLE INC. desires to transfer all its beneficial interest in such water rights to RTP Water Co., and RTP Water Co. intends to use the 125 acre feet of water rights described in Exhibit “A” to provide water service to APPLE INC.

NOW THEREFORE, the parties convey and agree as follows:

II Water Rights Deed

2.1 FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, County does hereby ASSIGN, CONVEY AND QUITCLAIM to RTP Water Co. (whose address is: 180 Country Estates Circle, Reno, Nevada 89511), all of County’s rights, title and interest in and to those certain waters and water rights under the permits as described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “Water Rights Interests”).

2.2 TOGETHER with the tenements, hereditaments and appurtenances, including easements, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

2.3 SUBJECT TO, HOWEVER, the Apple Assignments and any liens, conveyances and assignments granted or suffered by any prior owners of the Water Rights Interests or anyone with a beneficial interest in the Water Rights Interests; provided, however, that County warrants and represents that it has not conveyed or granted any prior conveyances or liens against its legal title, and is aware only of the conveyance of a beneficial interest to APPLE INC. as described above.

2.4 RTP Water Co. hereby accepts County’s conveyance of the Water Rights Interests, and agrees to prepare a report of conveyance and other documents required by the State Engineer in connection with such conveyance. If any recording fees or real property transfer taxes are

required for recording of this document, then RTP Water Co. agrees to pay them.

**III
Assignment of Beneficial Interests
(Apple Inc.)**

3.1 APPLE INC., a California corporation, warrants, represents, agrees and conveys as follows:

a. APPLE INC. still holds and has not conveyed, agreed to convey, or allowed or suffered any liens, transfers or conveyances upon or in the beneficial interest in the 125 acre feet of water rights assigned to it from UIG pursuant to the Apple Assignments.

b. APPLE INC. hereby quitclaims, assigns and conveys to RTP Water Co. all of APPLE INC.'s rights, title and interest in the beneficial interest held under the Apple Assignments, with the intent that the interest conveyed hereby merges in all respects with the legal fee title in the Water Rights Interest conveyed above by County to RTP Water Co.

3.2 RTP Water Co. accepts APPLE INC.'s conveyance of its rights under the Apple Assignments in satisfaction of the Transfer Condition Requirement under the bylaws of RTP Water Co.

IV

General Terms

4.1 Documents/ actions of further assurance. All parties agree to take all actions and execute all documents reasonably needed to accomplish the purposes hereof, including, but not limited to, any reports of conveyance (to be prepared by RTP Water Co.) or other documents required by the State Engineer.

4.2 Counterparts/ recording. This Water Rights Deed With Assignment of Beneficial Interest may be executed in counterparts and shall be recorded when the original of all counterpart signature pages are assembled together.

//////////////////////////////////Nothing follows on this page//////////////////////////////////

Water Rights Deed with Assignment of Beneficial Interest

Counterpart Signature Page

County:
WASHOE COUNTY, a political subdivision of the State of Nevada

By: _____ Date _____
Marsha Berkbigler, Chair
Board of County Commissioners

Attest:

Nancy Parent, County Clerk
Date _____

STATE OF NEVADA)
)ss. Acknowledgment in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

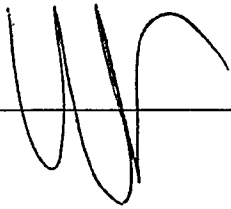
This Instrument was acknowledged before me on _____
by MARSHA BERKBIGLER, as Chair of the Board of County Commissioners of Washoe
County, Nevada.

Notary Public

Water Rights Deed with Assignment of Beneficial Interest

Counterpart Signature Page

APPLE INC., a California corporation

By  _____

Date 03/06/2015

STATE OF _____)

)ss.

Acknowledgment in Representative Capacity

COUNTY OF _____)

(NRS 240.1665)

This Instrument was acknowledged before me on _____
by _____
as _____
of APPLE INC., a California corporation.

SEE ATTACHED

Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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)
County of SANTA CLARA)

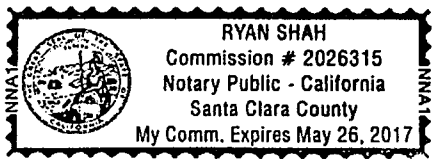
On MARCH 6, 2015 before me, RYAN SHAH, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared GENE DANIEL LEVOFF
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the 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 [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____
 Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____
 Partner — Limited General Partner — Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian or Conservator Trustee Guardian or Conservator
 Other: _____ Other: _____
Signer Is Representing: _____ Signer Is Representing: _____

Water Rights Deed with Assignment of Beneficial Interest

Counterpart Signature Page

RTP Water Co.:

RENO TECHNOLOGY PARK WATER COMPANY, a Nevada non-profit corporation

By [Signature]
Name Nicholas J. Pavich
Title President

Date MARCH 9, 2015

STATE OF NEVADA)
)ss. Acknowledgment in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

This Instrument was acknowledged before me on MARCH 9, 2015
by NICHOLAS J. PAVICH
as PRESIDENT
of RENO TECHNOLOGY PARK WATER COMPANY, a Nevada non-profit corporation.



[Signature]
Notary Public

EXHIBIT "A"

Description of Water Rights Interests

Portions of those waters and water rights under the following permits issued by and on file with the office of the State Engineer of the State of Nevada, Nevada Division of Water Resources:

<u>Permit Numbers:</u>	<u>Duty (Ac.FT.)</u>
75838	(formerly 67363) portion being 125.00 ac.ft. Total Combined Duty with 75841
75841	(formerly 66635) portion being 125.00 ac.ft. Total Combined Duty with 75838

* * *

APN: N/A (Water Rights)

WHEN RECORDED, MAIL TO:

Stonefield, Inc.
355 Boxington Way, Suite B
Sparks, NV 89434

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040.

WATER RIGHTS DEED AND TERMINATION AGREEMENT

THIS INDENTURE AND AGREEMENT is by and between:

“County” Washoe County, a political subdivision of the State of Nevada
P.O. Box 11130
Reno, NV 89520
Community Services Department (Dave Solaro)

“Stonefield” Stonefield, Inc., a Nevada corporation
355 Boxington Way, Suite B
Sparks, NV 89434

**I.
Recitals.**

WHEREAS:

A. County received fee title to 1,125.60 acre feet of permitted ground water rights via collective grants and conveyances from (i) TRI General Improvement District (Deed recorded as Document No. 3653028, Official Records, Washoe County, Nevada, the **“TRIGID Deed”**) on behalf and for the benefit of Stonefield, (ii) Patrick Properties LLC (Deed recorded as Document No. 3653031, Official Records, Washoe County, Nevada, the **“Patrick Properties Deed”**) on behalf and for the benefit of Stonefield, (iii) TRI Water & Sewer Co (Deed recorded as Document No. 3653030, Official Records, Washoe County, Nevada, the **“TRI Water and Sewer Deed”**) on behalf and for the benefit of Stonefield and (iv) Stonefield (Deed recorded as Document No. 3653029, Official Records, Washoe County, Nevada, the **“Stonefield Deed”**);

B. Stonefield and County entered into a certain water banking agreement with respect to such conveyed water rights, which agreement was recorded as Document 3653032, on May 22, 2008, Official Records of Washoe County (the "**Stonefield Banking Agreement**"). The Stonefield Banking Agreement reserved to Stonefield an assignable beneficial interest to receive such water rights back from the County to the extent they have not been committed to back up a project "will serve" letter from the County.

C. In connection with the development of a project known as the Reno Technology Park east of Sparks, Nevada, Stonefield assigned a beneficial interest to 125 acre feet (from permits nos. 75838 and 75841) of water rights to UNIQUE INFRASTRUCTURE GROUP LLC, a Nevada limited liability company ("**UIG**"), under an "Assignment of Beneficial Interest In Water Rights Held by Washoe County" dated on or about October 22, 2012, which was acknowledged and agreed to by County; and UIG simultaneously assigned the same beneficial interest in 125 acre feet of water rights to APPLE INC. under an "Assignment of Beneficial Interest In Water Rights Held by Washoe County" dated on or about October 22, 2012, which was acknowledged and agreed to by County (collectively, the "**Apple Assignments**"). Contemporaneously with County's execution and delivery of this deed, County is transferring legal title to those 125 acre feet of water rights to the Reno Technology Park Water Company.

D. County and Stonefield desire to reconvey to Stonefield legal title of all water rights remaining to be held by County under the Stonefield Banking Agreement, subject to the below terms and provisions of this Water Rights Deed and Termination Agreement (all of such remaining water rights, the "**Remaining Water Rights**"), and terminate the Agreement. Those Remaining Water Rights originally conveyed to County by the Patrick Properties Deed are the "**Patrick Properties Water Rights**," and those Remaining Water Rights originally conveyed to County by the TRI Water and Sewer Deed and the TRIGID Deed are the "**TRI Water Rights**."

NOW THEREFORE, the parties convey and agree as follows:

II Stonefield Water Rights Deed

2.1 FOR A VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, County does hereby ASSIGN, CONVEY AND QUITCLAIM to Stonefield, all of County's rights, title and interest in and to those certain waters and water rights and all rights under the permits described in **Exhibit "A"** attached hereto and incorporated herein by this reference, which are the TRI Water Rights.

2.2 TOGETHER with the tenements, hereditaments and appurtenances, including easements, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

2.3 SUBJECT TO, HOWEVER, the Apple Assignments, the rights and interest under which shall not merge with or otherwise be affected by the conveyance pursuant to Section 2.1 above, and subject to and further excepting from such conveyance any liens, conveyances and assignments granted or suffered by any prior owners of said water rights or anyone with a beneficial interest in said water rights; provided, however, that County warrants and represents that it has not conveyed or granted any prior conveyances or liens against its legal title, and is aware only of the conveyance of a beneficial interest to APPLE INC. pursuant to the Apple Assignments.

2.4 Stonefield hereby accepts the TRI Water Rights conveyed by this deed and agrees to prepare a report of conveyance and other documents as required by the State Engineer in connection with such conveyance. If any recording fees or real property transfer taxes are required for recording of this document, then Stonefield agrees to pay them.

III

Termination of Stonefield Banking Agreement.

3.1 By separate deed being recorded concurrently herewith, the Patrick Properties Water Rights are being reconveyed directly to Patrick Properties LLC (the "**Patrick Properties Reconveyance Deed**"). Stonefield and County hereby agree that effective upon the recordation of this instrument and the Patrick Properties Reconveyance Deed, respectively, in Official Records, Washoe County, Nevada, the Stonefield Banking Agreement is and shall be deemed terminated in all respects, and that all obligations of all parties thereto have either been performed or are hereby discharged in full. Stonefield and County further agree that with the termination of the Stonefield Banking Agreement, Stonefield is obligated to and shall respect and honor the Apple Assignments and agrees to hold County harmless from any obligation to execute any documents or take any actions to preserve or enforce such assignments, and agrees to indemnify and defend County from any liability inuring to the holders of any beneficial interests, subject to the operation and effect of County's representations and warranties set forth in Section 2.3 above, the specific matters covered by such representations and warranties being excluded from Stonefield's obligations to indemnify, defend and hold County harmless pursuant to this Section 4.1.

IV

General Terms

4.1 **Documents/ actions of further assurance.** Stonefield and County each agrees to take all actions and execute all documents reasonably needed to accomplish the purposes hereof, including, but not limited to, any reports of conveyance (to be prepared and filed by Stonefield) or other documents required by the State Engineer.

4.2 Counterparts/ recording. This Water Rights Deed and Termination Agreement may be executed in counterparts and shall be recorded when the original of all counterpart signature pages are assembled together.

/////////////////////////////////Nothing follows on this page////////////////////////////////

Water Rights Deed and Termination Agreement

Counterpart Signature Page

County:

WASHOE COUNTY, Nevada, a political subdivision of the State of Nevada

By: _____ Date _____
Marsha Berkgigler, Chair,
Board of County Commissioners

Attest:

_____ Date _____
Nancy Parent, County Clerk

STATE OF NEVADA)
)ss. Acknowledgment in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

This Instrument was acknowledged before me on _____, 2015,
by MARSHA BERKBIGLER, as Chair of the Board of County Commissioners of Washoe
County, Nevada.

Notary Public

Water Rights Deed and Termination Agreement

Counterpart Signature Page

STONEFIELD

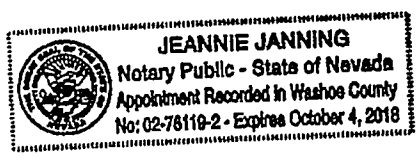
Stonefield, Inc., a Nevada corporation

By *Gary Nelson*
Gary Nelson, Vice President

Date 6/15/15

STATE OF NEVADA)
)ss. Acknowledgment in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

This Instrument was acknowledged before me on June 15, 2015,
by GARY NELSON as Vice President of Stonefield Inc, a Nevada corporation.



Jeannie Janning
Notary Public

EXHIBIT "A"

Description of TRI Water Rights Interests

All of those waters and water rights under the following permits issued by and on file with the office of the State Engineer of the State of Nevada, Nevada Division of Water Resources:

<u>Permit Numbers:</u>	Duty (Ac.FT.)
75838	(formerly 67363) Portion being 160.60 ac.ft. Total Combined Duty with 75841
75841	(formerly 66635) Portion Being 160.60 ac.ft. Total Combined Duty with 75838

* * *

Description Approved:



Vahid Behmaram, Water Rights Manager

APN: N/A (Water Rights)

WHEN RECORDED, MAIL TO:

Stonefield, Inc.
355 Boxington Way, Suite B
Sparks, NV 89434

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040.

WATER RIGHTS DEED AND TERMINATION AGREEMENT

THIS INDENTURE AND AGREEMENT is by and among:

“County” Washoe County, a political subdivision of the State of Nevada
P.O. Box 11130
Reno, NV 89520
Community Services Department (Dave Solaro)

“Stonefield” Stonefield, Inc., a Nevada corporation
355 Boxington Way, Suite B
Sparks, NV 89434

“Patrick” Patrick Properties, LLC, a Nevada limited liability company
355 Boxington Way, Suite B
Sparks, NV 89434

**I.
Recitals.**

WHEREAS:

A. County received fee title to 1,125.60 acre feet of permitted ground water rights via collective grants and conveyances from (i) TRI General Improvement District (Deed recorded as Document No. 3653028, Official Records, Washoe County, Nevada, the **“TRIGID Deed”**) on behalf and for the benefit of Stonefield, (ii) Patrick Properties LLC (Deed recorded as Document No. 3653031, Official Records, Washoe County, Nevada, the **“Patrick Properties Deed”**) on behalf and for the benefit of Stonefield, (iii) TRI Water & Sewer Co (Deed recorded as Document No. 3653030, Official Records, Washoe County, Nevada, the **“TRI Water and**