



2017-004334

Klamath County, Oregon

04/25/2017 02:46:00 PM

Fee: \$77.00

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Resort Resources, Inc.  
PO Box 1466  
Bend, OR 97709  
Attn: Karen Smith

### UTILITY EASEMENT AGREEMENT

18 THIS UTILITY EASEMENT AGREEMENT (this "Agreement") is entered into as of this April day of 2017 (the "Effective Date") by and between CLV Properties, LLC, an Oregon limited liability company ("Grantor") and Running Y Environmental, LLC, a Delaware limited liability company ("Grantee").

#### Recitals

A. Grantor is the owner of that certain real property located in Klamath County, Oregon, legally described as Lot 84, Running Y Resort Phase 1, as shown on the plat recorded August 2, 1996 in the official records of Klamath County, Oregon, at Book 23, Pages 63-69 and Lot 956, Running Y Resort, Phase 12, Tract 1423 as shown on the plat recorded in the official records of Klamath County, Oregon, at Volume 25, Pages 03-10 (collectively, "Grantor's Property").

B. Grantee operates a utility company that provides sewer services to the Running Y Ranch Resort Community. Grantee owns and uses a sewer line that is located on a portion of Grantor's Property, which parcel of land is legally described on the attached **Exhibit A** (the "Easement Area").

C. Grantee has requested a utility easement over the Easement Area for purposes of retaining, using, maintaining, repairing and replacing the sewer line, and Grantor has agreed, subject to Grantee's agreement to maintain insurance, to repair any damage to Grantor's Property caused by any work Grantee performs to the sewer line in the Easement Area, and to indemnify Grantor. The parties have agreed, all on the terms and conditions contained herein.

#### Agreement

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Grantor and Grantee hereby agree as follows:

1. Grant of Easement. Subject to the rights and restrictions set forth in this Agreement, Grantor hereby grants Grantee a permanent, non-exclusive easement over, on and across the Easement Area for the use, maintenance, repair and replacement of a sewer line. Such easement shall permit access to the sewer line as Grantee deems necessary by Grantee and its employees, agents, licensees and contractors. Neither party shall relocate the Easement Area or reconfigure the sewer line within the Easement Area without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. Grantor shall not install any improvements or take any action that would damage, or interfere with the use of, or Grantee's access to, the sewer line.

2. Maintenance. Grantee shall promptly repair damage to the sewer line within the Easement Area at Grantee's sole cost. Grantee shall repair any damage to the Easement Area or any other property caused by the Grantee's exercise of its rights hereunder or the

use of the sewer line in the Easement Area. Grantee shall comply with all laws, ordinances, rules and regulations of appropriate governmental agencies and all rules and regulations of Grantor in connection with the use, operation and maintenance of the sewer line in the Easement Area. Grantee shall pay when due all claims for work performed or material furnished on the sewer line within the Easement Area. Grantee shall keep the Easement Area free of any liens arising out of the failure to pay any such claims or arising out of any other activity of Grantee.

3. Indemnification; Insurance.

3.1 Grantee accepts the condition of the Easement Area in its "as is" condition. Grantee shall indemnify, protect, defend and hold Grantor harmless from and against any and all claims, demands, actions, suits, judgments, losses, liabilities, damages, costs or expenses (including attorneys' fees and costs) arising from or in any way related to the use, maintenance, repair or replacement of the sewer line in the Easement Area by Grantee or any of its members, contractors, agents, invitees or employees pursuant to this Agreement. The foregoing release and indemnification shall not apply to any claims, demands, actions, suits, judgments, losses, liabilities, damages, costs or expenses to the extent arising from or caused by the negligent acts or omissions by the Grantor or Grantor's members, contractors, agents, employees or invitees.

3.2 Insurance. Grantee shall procure and maintain throughout the term of this Agreement, at its sole cost and expense, general liability insurance in commercially reasonable amounts covering all of Grantee's activities relating to the sewer line within the Easement Area and Grantee's use of the Easement Area pursuant to this Agreement. The policy shall name Grantor as an additional insured and shall provide that it is primary insurance, and not in excess of or contributing with any other insurance maintained by Grantor. Grantee shall provide Grantor with an insurance certificate or, at Grantor's request, a copy of the insurance policy that evidences the required insurance coverage and shall thereafter promptly provide to Grantor copies of all renewals or extensions thereof.

4. Binding Effect. This Agreement and its terms, including the easement granted hereunder, shall run with the land and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Without limiting the generality of the foregoing, Grantee's interest in this Agreement, including the easement granted to Grantee herein, shall automatically transfer and be assigned to any individual or entity who acquires all or substantially all of Grantee's assets or who acquires the portion of Grantee's assets used to provide sewer or wastewater services within the Running Y Ranch Resort Community. Grantee may memorialize any transfer pursuant to this Section 4 with a written assignment agreement, but such written assignment agreement shall not be necessary to effect the assignment of this Agreement and the easement granted hereunder.

5. Attorneys' Fees. If a suit, action or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights hereunder, the prevailing party shall be entitled to recover its attorneys' fees and other fees and costs actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

6. Notices. Any notice or other communication given pursuant to this Agreement shall be in writing and shall be sent by: (i) United States certified mail, return receipt requested, postage prepaid; (ii) nationally recognized overnight courier guarantee next day delivery, or (iii) personal delivery. Notices given to either party shall be delivered to the

mailing address on file with the Oregon Secretary of State. All notices shall be deemed given three (3) business days following deposit in the United States mail with respect to certified letters, one (1) business day following deposit if delivered to an overnight courier guaranteeing next day delivery and on the same day if sent by personal delivery. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above specified.

7. Waiver. The failure of either party to exercise its rights in connection with any breach or violation of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition of this Agreement.

8. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended except by a written instrument signed by both parties and recorded in the official records of Klamath County, Oregon.

9. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

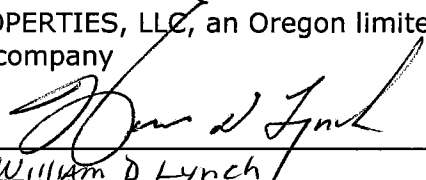
10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

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

GRANTOR:

CLV PROPERTIES, LLC, an Oregon limited liability company

By:   
Name: William D Lynch  
Title: manager

GRANTEE:

RUNNING Y ENVIRONMENTAL, LLC,  
a Delaware limited liability company,

By: NV Oregon Resorts Investors, LLC, a  
Delaware limited liability company  
Its: Authorized Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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GRANTOR:

CLV PROPERTIES, LLC, an Oregon limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

GRANTEE:

RUNNING Y ENVIRONMENTAL, LLC,  
a Delaware limited liability company,

By: NV Oregon Resorts Investors, LLC, a  
Delaware limited liability company  
Its: Authorized Agent

By:   
Name: **Simon Hallgarten**  
Title: **Authorized Signatory**

## ACKNOWLEDGMENT

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 San Diego

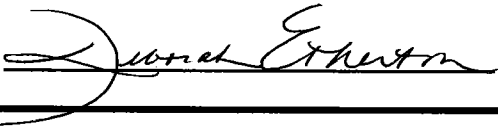
On April 17, 2017 before me, Deborah Etherton, Notary Public,  
(insert name and title of the officer)

personally appeared William D. Lynch,  
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.

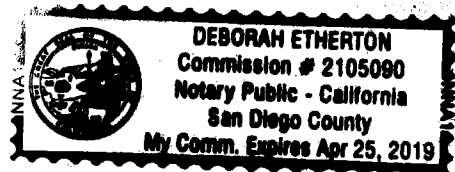
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_ 2017, by \_\_\_\_\_, who is the \_\_\_\_\_ of CLV Properties, LLC, an Oregon limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF Connecticut )  
 ) ss.  
County of Sarfield )

The foregoing instrument was acknowledged before me on this 18<sup>th</sup> day of April 2017, by Simon Hallgarten, who is the authorized signatory of NV Oregon Resorts Investors, LLC, a Delaware limited liability company, the authorized agent of Running Y Environmental, LLC, a Delaware limited liability company, on behalf of Running Y Environmental, LLC.

  
\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Catherine Smengilo**  
**Notary Public - Connecticut**  
My commission expires 11/30, 2020

**"EXHIBIT A"**  
**Legal Description of Easement Area**  
**UTILITY EASEMENT**

Across Lot 84 of Tract 1319 and Lot 956 of Tract 1423

A Parcel of land SW1/4 of Section 9, Township 38 South, Range 08 East of the Willamette Meridian, Klamath County Oregon; going across Lot 84 of Tract 1319, Running Y Resort Phase 1 and Lot 956 of Tract 1423, Running Y Resort Phase 12, both duly recorded Subdivisions on file at the Klamath County Clerk's office, being more particularly described as follows:

Beginning on the southerly right of way line of Coopers Hawk Drive at the corner common to Lot 84 of Tract 1319 and Lot 956 of Tract 1423; thence, along said right of way line, along a 530.00 foot radius curve to the right, through a central angle of 00°54'05" (the long chord of which bears North 39°17'30" West, 8.34 feet) an arc distance of 8.34 feet; thence leaving said right of way line, South 07°21'41" East, 21.57 feet; thence South 52°43'48" East, 99.63 feet to a point on said southerly right of way line; thence along said right of way line, along the arc of a 530.00 foot curve to the right, through a central angel of 11°38'33" (the long chord of which bears North 45°33'49" West, 107.51 feet) an arc distance of 107.70 feet to the point of beginning.

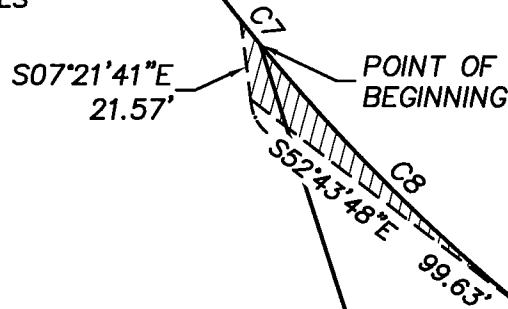
Basis of Bearings is Tract 1319.

Containing 520 square feet, more or less.

**EXHIBIT MAP**  
**LOT 84 OF RYR PH 1**  
**AND**  
**LOT 956 RYR PH 12**

LOT 956  
 TRACT 1423 RUNNING Y RESORT PH 12  
 CLV PROPERTIES

PARCEL 2  
 LP 33-07  
 WORLDMARK



COOPER'S HAWK ROAD

LOT 84  
 TRACT 1319 RUNNING Y RESORT PH 1  
 CLV PROPERTIES



1"=50'

**Curve Table**

Curve #	Length	Radius	Delta	Chord Bearing	CH Length
C7	8.34'	530.00'	0°54'05"	N39°17'30"W	8.34'
C8	107.70'	530.00'	11°38'33"	N45°33'49"W	107.51'

**REGISTERED**  
**PROFESSIONAL**  
**LAND SURVEYOR**

*Keith R. Rhine*

OREGON  
 JULY 11, 2000  
**KEITH R. RHINE**  
**58985**

RENEWAL DATE: 12-31-18

**R-C**  
**RHINE-CROSS**  
**GROUP**

**RHINE-CROSS GROUP** LLC

ENGINEERING - SURVEYING - PLANNING  
 112 N 5th ST - SUITE 200 - P.O. BOX 909  
 KLAMATH FALLS, OREGON 97601

Phone: (541) 851-9405

Fax: (541) 273-9200

admin@rc-grp.com