

**Carson City Board of Supervisors
Agenda Report**

Date Submitted: October 27, 2010

Agenda Date Requested: November 16, 2010

Time Requested: Consent

To: Mayor and Supervisors

From: Public Works

Subject Title: Action to approve and authorize the Mayor to sign a Non-Exclusive Water Meter Access and Maintenance Easement between the Nevada Division of State Lands and Carson City, whereby the State of Nevada will grant the City an easement onto the Nevada State Prison site near the intersection of Butti Way and E. 5th Street for purposes of operation and maintenance of an existing water meter.
(Sharp)

Staff Summary: A water meter was installed in 2008 on the Nevada State Prison site near the intersection of Butti Way and E. 5th Street. The easement will allow the City legal access to operate and maintain the water meter.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve and authorize the Mayor to sign a Non-Exclusive Water Meter Access and Maintenance Easement between the Nevada Division of State Lands and Carson City, whereby the State of Nevada will grant the City an easement onto the Nevada State Prison site near the intersection of Butti Way and E. 5th Street for purposes of operation and maintenance of an existing water meter.

Explanation for Recommended Board Action: The Easement is necessary to allow Carson City to operate and maintain the water meter.

Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: None

Explanation of Impact: N/A

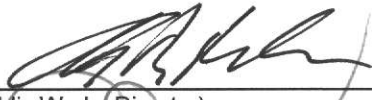
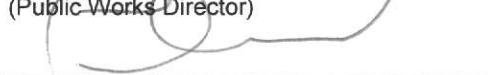

Funding Source: N/A

Alternatives: Do not approve the Agreement.

Supporting Material: Two copies of the Easement document including Exhibit A: Location Map and Exhibit B: Legal Description.

Prepared By: Jeff Sharp, City Engineer



Reviewed By: 
(Public Works Director)

(City Manager)

(District Attorney)

Date: 11/8/10
Date: 11/15/10
Date: 11/8/10

Board Action Taken:

Motion: _____

	Aye/Nay
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____
5) _____	_____

(Vote Recorded By)



PRIS 1,DMM, 3236
Carson City
A.P.N.: 010-041-55

Recording Requested by and Return To:
DIVISION OF STATE LANDS
901 S. STEWART STREET, SUITE 5003
CARSON CITY, NV 89701-5246

NON-EXCLUSIVE EASEMENT

CARSON CITY WATER METER

ACCESS AND MAINTENANCE EASEMENT

This Non-Exclusive Easement is made and entered into this ____ day of _____, 2010 by and between the STATE OF NEVADA, acting through the NEVADA DIVISION OF STATE LANDS, for and on behalf of the NEVADA DEPARTMENT OF CORRECTIONS, hereinafter referred to as GRANTOR, and the CARSON CITY, A CONSOLIDATED MUNICIPALITY OF THE STATE OF NEVADA, hereinafter referred to as GRANTEE:

WHEREAS, GRANTOR owns Carson City Assessor's parcel number 010-041-55; and

WHEREAS, the Nevada State Public Works Board constructed and installed WATER FACILITIES through State Public Works Boards Project Number 05-M13 on the GRANTOR'S parcel to service the Nevada State Prison for domestic and fire suppression purposes; and

WHEREAS, the WATER FACILITIES include three concrete vaults each which contain a backflow prevention assembly, a bypass line and a water meter; and

WHEREAS, it is understood the GRANTOR is responsible for the ownership and maintenance of the concrete vaults which contain the backflow prevention assembly and the bypass line; and

WHEREAS, the WATER FACILITIES are connected to the GRANTEE'S municipal water system and the GRANTEE has made application to and wishes to obtain from the GRANTOR an easement to access and maintain the concrete vault which contains their water meter located upon the GRANTOR's parcel; and

WHEREAS, NRS 322.050 and 322.060 gives the Administrator of the Division of State Lands the authority to grant easements over or upon any land owned by the State of Nevada;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, GRANTOR does hereby grant to GRANTEE a Non-Exclusive Easement for the purposes stated above, hereinafter referred to as "the Project," over, across and/or through the following described property, together with the right to enter upon the property to construct, reconstruct, inspect, maintain, and repair structures and to remove bushes, undergrowth or other obstructions interfering with the location, construction and maintenance, in whole or in part, at will upon, over, across and/or through a portion of that certain property situate in Section 16, Township 15 North, Range 20 East, as shown on **EXHIBIT A** attached hereto and by reference made a part hereof. The location of the Project is described in the legal description attached hereto as **EXHIBIT B** and by reference made a part hereof.

IN FURTHER CONSIDERATION for the granting of this Non-Exclusive Easement, GRANTEE, its successors and assigns and/or its agent(s) and contractor(s), understands and agrees to the following specific conditions:

1. **PURPOSE:** The property described herein may be used by GRANTEE solely for the Project. The Project shall be executed in accordance with the Nevada State Public Works Board Backflow Prevention Project Number 05-M13 dated March 5, 2008 incorporated herein and by reference made a part hereof.

2. **JURISDICTION OF STATE:** The Non-Exclusive Easement for the Project extends only to the areas described in **EXHIBITS A and B** and shall not be construed to authorize access across private lands. If GRANTEE needs to utilize other portions of the property not granted to it through this Non-Exclusive Easement, a permit, license, easement or other authorization to do so is required.

3. **CONSIDERATION:** The Administrator of the Division of State Lands waives any fee for this non-exclusive easement as it is a benefit to the State of Nevada.

4. **PERMITS:** This Non-Exclusive Easement is subject to the acquisition of all local, regional, state and federal permits and approvals as required by law. GRANTEE agrees to obtain and adhere to the conditions of the necessary permits.

5. **INDEMNIFICATION:** GRANTEE, its successors and assigns, and/or agent(s) or contractor(s) as Indemnitors agrees to indemnify, defend and hold harmless the State of Nevada and its agents from and against any and all liability for personal injuries, claims, actions, damages, expenses, or for loss of life or property resulting from, or in any way connected with the conditions or use of the premises covered herein, including any hazard, deficiency, defect, or

other matter, known or unknown, or connected with the installation and maintenance of the Project. This indemnification does not exclude the State of Nevada's right to participate in its defense of a matter subject to this indemnification.

6. **LIMITED LIABILITY:** GRANTOR will not waive and intends to assert all available immunities and statutory limitations in all cases, including, without limitation, the provisions of Nevada Revised Statutes Chapter 41.

7. **INSURANCE; CONTRACTORS AND SUB-CONTRACTORS:** This provision is applicable to all Non-Governmental Entities engaged to work on the premises granted by this Non-Exclusive Easement and does not apply to any GRANTEE considered a Public Entity. GRANTEE agrees to carry and to require their contractors and sub-contractors to carry their own General Liability Insurance Policy issued by an insurance company authorized to do business in the State of Nevada and which is currently rated by A. M. Best as A-VII or better. The insurance policy is to be kept in full force and effect during the term of this Non-Exclusive Easement. Such insurance policy shall be at the minimum, in the amount of \$1,000,000 per occurrence for bodily injury and property damage and shall via an endorsement, name the *State of Nevada, its officers, employees and agents as additional insureds* for all liability arising from the use of state land. Each liability insurance policy shall also provide for a waiver of subrogation as to all additional insured's. GRANTEE agrees to provide and to require their contractors and sub-contractors to provide to the State of Nevada the Accord 25 Certificate of Insurance as proof of the insurance and an Additional Insured Endorsement, signed by an authorized insurance company representative, to evidence the endorsement of the State as additional insured. **The**

Certificate of Insurance and Additional Insured Endorsement shall be provided by each contractor and sub-contractor prior to their entry upon state property and be sent to:

**Deann McKay, State Land Agent II
Nevada Division of State Lands
901 S. Stewart Street, Suite 5003
Carson City, Nevada 89701**

8. PLANS AND PHOTOGRAPHS: The Project and related activities must be completed in accordance with the approved application and plans on file in the office of the Division of State Lands. The Division of State Lands must be notified if any alterations to the approved plans which would substantially affect the land are made or proposed prior to commencement of or during any work on the Project and related activities. The Division of State Lands reserves the right to prohibit said alterations.

9. INSPECTION: GRANTOR retains the right to inspect the Project at any time. GRANTEE agrees to notify GRANTOR at least **TWO (2)** business days prior to the commencement and termination of any activities on the property to allow interested agencies the opportunity to inspect the Project.

10. EXISTING EASEMENTS: GRANTEE, its successors and assigns, and/or its agent(s) or contractor(s) understands and agrees to require contractors to use caution when constructing and placing the Project and supporting equipment because of the possibility of additional utility laterals not known, and to be responsible for damage caused to any other utilities located upon state land. The legally required offsets from any existing gas, electric, water and/or communication lines shall be maintained at all times.

11. **HISTORIC DISCOVERIES:** If prehistoric or historic remains or artifacts are discovered during any work performed within the Non-Exclusive Easement, work will be temporarily halted and the State Historic Preservation Office at (775) 684-3448 as well as the Division of State Lands at (775) 684-2720 shall be notified. GRANTEE will heed to the responsibilities required under Section 106 of the National Historic Preservation Act of 1966, as amended.

12. **DAMAGE TO STATE LAND:** GRANTEE, its successors and assigns, and/or its agent(s) or contractor(s) understands and agrees to pay for and be responsible for all direct or indirect damages to the real property, improvements, and personal property of GRANTOR caused by GRANTEE during any construction, re-location, installation, use, operation, inspection, future maintenance, repairs, reconstruction and removal of the Project, and further agrees to return the land to its pre-project condition upon completion of the work.

13. **MAINTENANCE:** GRANTEE, its successors and assigns, shall be responsible for all maintenance of the Project owned by GRANTEE and within the Non-Exclusive Easement and understands and agrees that the Project must be maintained in good repair at all times.

14. **ENVIRONMENTAL CONDITIONS:** GRANTEE, its successors and/or its agent(s) or contractor(s) understands and agrees to maintain the Project within the Nevada Division of Environmental Protection's Best Management Practices guidelines.

15. **WARRANTIES:** GRANTOR makes no warranty as to the condition of or the adequacy of the property for the proposed uses of GRANTEE.

16. **NOTICES:** All notices under this Non-Exclusive Easement shall be in writing and delivered in person or sent by certified mail, return receipt requested, to GRANTOR and to

GRANTEE at their respective addresses set forth below or to such other address as may hereafter be designated by either party in writing:

GRANTOR'S ADDRESS:

Division of State Lands
901 S. Stewart St., Ste. 5003
Carson City, Nevada 89701

GRANTEE'S ADDRESS:

Carson City, a Consolidated Municipality
of the State of Nevada
3505 Butti Way
Carson City, Nevada 89701

17. FURTHER AUTHORIZATIONS: Further authorization from the Division of State Lands is required prior to commencement of any future work or activities at locations other than that described in **EXHIBITS A & B.**

18. TERMINATION: Either party shall have the right to terminate this Non-Exclusive Easement in whole or in part any time during the term hereof, provided, however, that either party shall give NINETY (90) days written notice of election to terminate. Upon termination, the land will be returned to as near as its original condition as possible. The GRANTEE, its successors and assigns, understands and agrees that at the termination of this Non-Exclusive Easement the Project will be removed by GRANTEE, if so requested by GRANTOR, and the land restored to its pre-project condition. Any and all right, title or interest must be quitclaimed by instrument to the GRANTOR within a reasonable time, without claim or demand of any kind from GRANTOR. Except as might otherwise be provided for, any expenses for removal of the Project and for the restoration of the land will be borne by GRANTEE, its successors and assigns at no expense or cost to the GRANTOR.

19. TERM AND DISCONTINUATION: This Non-Exclusive Easement shall continue so long as the same may be necessary and required for the purposes for which is was granted unless terminated sooner by another provision. If at any time the GRANTEE should discontinue

said use for a period of ONE (1) year this Non-Exclusive Easement shall thereupon terminate and all right, title and interest therein shall revert to GRANTOR, its successors and assigns.

20. COMPLIANCE TO CONDITIONS: Failure to concur with or comply with any of the conditions contained herein will cause this Non-Exclusive Easement to become invalid and shall require the removal of the Project and appurtenances. All right, title and interest in the Non-Exclusive Easement shall revert to GRANTOR. GRANTEE agrees to provide a copy of this Non-Exclusive Easement to its contractors prior to entering and beginning any work on the property described herein.

21. WAIVER: The failure of GRANTOR to insist upon strict performance of any of the covenants and agreements to this Non-Exclusive Easement or to exercise any option herein conferred in anyone or more instance, shall not be construed to be a waiver or relinquishment of any such covenants and agreements.

22. SURVIVAL: This Non-Exclusive Easement, and all of the terms hereof, shall inure to the benefit of, and be binding upon, the heirs, assigns and successors of the parties hereto, and the rights and obligations of the GRANTEE are, and shall continue to be, joint and several.

23. ENTIRE AGREEMENT: This Non-Exclusive Easement and conditions incorporated herein contain all of the agreements between the parties with respect to the matters contained herein. No prior agreement, understanding or verbal statement made by any party is a part hereof. No provisions of the Non-Exclusive Easement may be amended or modified in any manner whatsoever unless incorporated in writing and executed by both parties. When executed by the GRANTOR and GRANTEE, this Non-Exclusive Easement shall be binding upon GRANTOR and GRANTEE, their successors and assigns.

24. **AMENDMENT OR MODIFICATION:** This Non-Exclusive Easement may be amended or modified at anytime with the mutual consent of the parties hereto, which amendment or modification must be in writing, executed and dated by the parties hereto.

25. **SEVERABILITY:** If any term or provision of this Non-Exclusive Easement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Non-Exclusive Easement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable shall not be affected thereby, and each term and provision of this Non-Exclusive Easement shall be valid and shall be enforced to the fullest extent permitted by law.

26. **GOVERNING LAW:** This Non-Exclusive Easement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

27. **VENUE:** Any lawsuit brought to resolve a dispute arising from this Non-Exclusive Easement must be brought either in the location of the Project or in Carson City, Nevada.

28. **RECORDING:** This Non-Exclusive Easement may be recorded in the official real estate records of the county in which the property is located. GRANTEE shall responsible for all recording fees.

All covenants and agreements herein contained shall extend to and be a binding contract upon the successors and assigns as the case may be of the respective parties. Authorization given by the Division of State Lands does not obviate the necessity of obtaining other local, regional, or federal assent to the work authorized. This Non-Exclusive Easement may not be assigned.

IN WITNESS WHEREOF, the parties hereto have executed this Non-Exclusive Easement as of the day and year first above written.

GRANTOR:

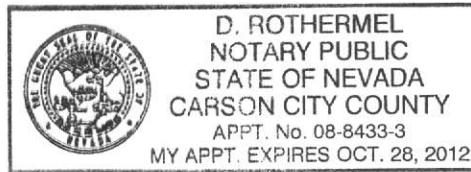
**STATE OF NEVADA
Division of State Lands**

By *James R. Lawrence*
JAMES R. LAWRENCE
Administrator and Ex-Officio
State Land Registrar

STATE OF NEVADA)
 :SS.
CARSON CITY)


On Oct 12, 2010, personally appeared before me, a notary public JAMES R. LAWRENCE, Administrator and Ex-Officio State Land Registrar, Division of State Lands, who acknowledged that he executed the above document.

D. Rothermel
NOTARY PUBLIC



APPROVED as to Form:

CATHERINE CORTEZ MASTO
Attorney General

By 
KEVIN BENSON
Deputy Attorney General

Date: 9/13/10

APPROVED:

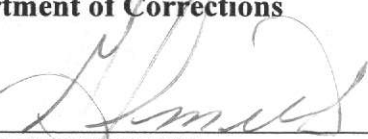
STATE OF NEVADA
Department of Corrections

By 
HOWARD SKOLNIK
Director

Date: 10/6/10

APPROVED:

STATE OF NEVADA
Department of Corrections

By 
GREGORY SMITH
Warden, Nevada State Prison

Date: 10-5-2010

GRANTEE:
CARSON CITY, A Consolidated Municipality
Of the State of Nevada

APPROVED FOR LEGALITY
AND FORM:

By: _____
NEIL A. ROMBARDO
District Attorney

APPROVED:

By: _____
ROBERT L. CROWELL
Mayor

ATTEST:

By: _____
ALAN GLOVER
Clerk/Recorder

STATE OF NEVADA)
) ss.
CARSON CITY)

On, _____ 2010, personally appeared before me, a notary public, ROBERT L. CROWELL, as Mayor and ALAN GLOVER, as City Clerk, who acknowledged that they executed the above instrument for and on behalf of Carson City.

NOTARY PUBLIC

EXHIBIT B
WATERLINE EASEMENT

...situate, lying and being in Carson City, State of Nevada, and more particularly described as being a portion of the NE ¼ of the SE ¼ of Section 16, Township 15 North, Range 20 East, M.D.M., and more fully described by metes and bounds as follows, to wit:

beginning at a point on the southerly right-of-way line of SR-513 (Fifth Street), 40.00 feet right of and at right angles to Highway Engineer's Station "OF1" 44+26.67 P.O.T.; said point of beginning further described as bearing S. 05°30'07" W., a distance of 1069.52' from the east quarter corner of said Section 16; said corner being a 2.5" BRASS DISK, STAMPED "NSP 16+15 ¼ RE 314, SET IN THE TOP OF A CONCRETE FILLED 6" STOVE PIPE, shown and delineated as a "BRASS CAP RE 314" on that certain PARCEL MAP for EVA LOMPA and THE FIRST INTERSTATE BANK of NEVADA, filed for record on June 29, 1983, in Book 4, Page 975 of the Official Records of Carson City, Nevada, File No. 19422, Parcel Map No. 975; thence S. 20°55'24" W a distance of 87.08'; thence N 69°04'36" W a distance of 30.00'; thence N 20°55'24" E a distance of 98.93' to the right or southerly right-of-way line of said SR-513; thence along said right or southerly right-of-way line, S 47°31'50" E., a distance of 32.25' to the point of beginning;

said parcel contains an area of 2790 square feet (0.064 acres).

The basis of bearing for this description is the North American Datum of 1983 / 94 (HARN), Nevada West zone as established on site by GPS observations.

Prepared by:
Jon B. Loder, PLS 10842
Cornerstone Land Surveying, Inc.
399 Greg Street
Sparks, Nevada 89431
(775) 786-1441

