

**Carson City Board of Supervisors
Agenda Report**

Date Submitted: January 28, 2011

Agenda Date Requested: February 17, 2011
Time Requested: Consent

To: Mayor and Supervisors

From: Public Works

Subject Title: Action to accept a Right-Of-Way Grant, serial number NVN 087468, from the United States Department of the Interior Bureau of Land Management, authorizing the City to construct, operate and maintain a sedimentation basin on public lands located at the northeast corner of the intersection of South Edmonds Drive and Valley View Drive. (Sharp)

Staff Summary: Public Works staff recently made application to BLM for this 230' long by 145' wide right of way adjacent to Valley View Drive and South Edmonds Drive in order to allow future construction of a storm water sedimentation basin. This area receives abundant storm water runoff from Prison Hill during heavy rainfall events. The runoff carries with it a substantial amount of sediment and debris that tends to clog downstream storm water conveyance facilities, and makes a mess on the area roadways. Once constructed, the sedimentation basin will be useful to catch the sediment and debris.

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 accept a Right-Of-Way Grant, serial number NVN 087468, from the United States Department of the Interior Bureau of Land Management, authorizing the City to construct, operate and maintain a sedimentation basin on public lands located at the northeast corner of the intersection of South Edmonds Drive and Valley View Drive.

Explanation for Recommended Board Action: See staff summary above.

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

Fiscal Impact: None. The standard BLM Right-Of-Way Grant document, section 3a. Rental includes the phrase "unless specifically exempted from such payment by regulation." The regulation that exempts the City from paying rent for this right-of-way is included in Title 43 Code of Federal Regulations (CFR) section 2806.14.

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: Do not accept the right-of-way grant.

Supporting Material: Right-Of-Way Grant including Exhibit A Map and Attachment 1 Native Seed Mix for Restoration and Reclamation. Excerpt from Title 43 CFR section 2806.14.

Prepared By: Jeff Sharp, City Engineer

Reviewed By: 
(Public Works Director)

Date: 2-8-11


(City Manager)

Date: 2/8/11


(District Attorney)

Date: 2/8/11

Board Action Taken:

Motion: _____

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

(Vote Recorded By)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Issuing Office:
Sierra Front Field Office

RIGHT-OF-WAY GRANT

Serial Number:
NVN 087468

1. A right-of-way is hereby granted pursuant to:

- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
- b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185).

2. Nature of Interest:

a. By this instrument, the holder:

Carson City
201 N. Carson Street, Suite 2
Carson City, NV 89701

receives a right to construct, operate, maintain, and terminate a sedimentation basin on public lands described as follows:

Mount Diablo Meridian
T. 15 N., R. 20 E.,
sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$

- b. The right-of-way (ROW) area granted herein is 145 feet wide, 230 feet long, containing 0.77 acres, more or less.
- c. This instrument shall terminate on December 31st, 2039, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

- a. For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management (BLM) fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations (CFR) parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a ROW granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibits(s) A dated August 11, 2010, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this ROW grant shall constitute grounds for suspension or termination thereof.
- f. The grant is subject to all valid rights existing on the effective date of the grant.
- g. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- h. In case of change of address, the holder shall immediately notify the authorized officer.
- i. The holder shall contact the Washoe Tribe of Nevada and California and provide the opportunity for a tribal monitor to be onsite to monitor surface disturbing activities authorized by this grant.

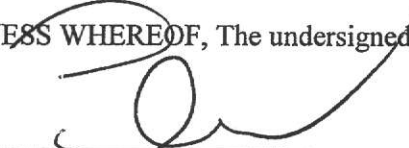
Any cultural (historic or prehistoric site or object) or paleontological resources or Native American human remains, funerary items, sacred objects, or objects of cultural patrimony discovered by the holder, or any person working on their behalf, during the course of activities on federal land shall be immediately reported to the authorized officer by telephone, followed by written confirmation. The holder shall suspend all operations in the immediate area of such discovery and protect it until an evaluation of the discovery can be made by the authorized officer.

For cultural resources other than Native American human remains, funerary items, sacred objects, or objects of cultural patrimony, this evaluation will determine the significance of the discovery and what mitigation measures are necessary to allow the activities to proceed. The holder is responsible for the cost of evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the authorized officer after consulting with the holder. Operations may resume only upon written authorization to proceed from the authorized officer.

For Native American human remains, funerary items, sacred objects, or objects of cultural patrimony the holder must stop activities in the immediate vicinity of the discovery and protect it from activities for 30 days or until notified to proceed by the authorized officer. The holder is responsible for the cost of consultation, evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the authorized officer after consulting with the holder.

- j. Construction sites shall be maintained in a sanitary condition at all times; waste material at those sites shall be disposed of promptly at an appropriate waste disposal site.
- k. The holder shall seed all disturbed areas outside the sediment basin, using an agreed upon method suitable and seed mixture for the location (Attachment 1). Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the growing season.
- l. The holder shall maintain the ROW in a safe, usable condition, as directed by the authorized officer.
- m. The holder shall be responsible for continued noxious weed control within the limits of the ROW in consultation with the BLM or the appropriate local authority.
- n. In the event that the public land underlying the ROW encompassed in this grant, or portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations in Title 43 CFR parts 2800 and 2880, as well as any rights to have the holder apply to the BLM for amendments, modifications, or assignments and for the BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.
- o. Six months prior to termination of the grant, the holder shall contact the authorized officer to arrange a joint inspection of the ROW. This inspection will be held to agree to an acceptable termination and rehabilitation plan. This plan shall include but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.



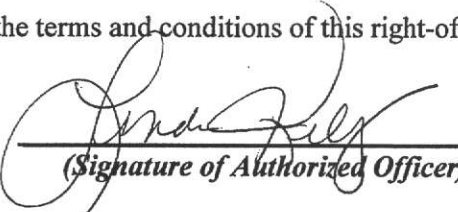
(Signature of Holder)

CITY MANAGER

(Title)

9/8/2010

(Date)



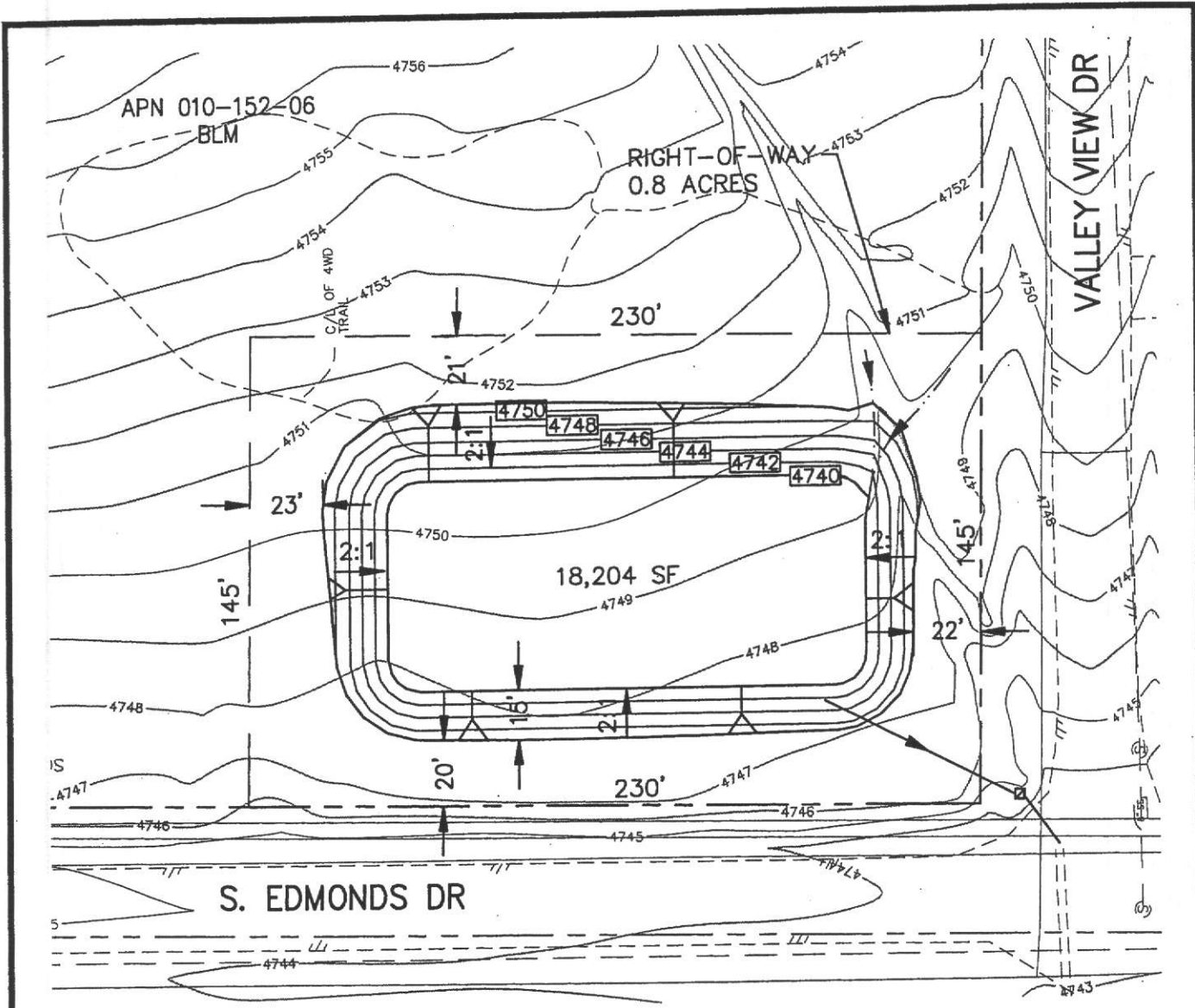
(Signature of Authorized Officer)

Field Office Manager

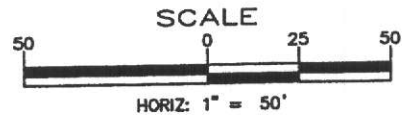
(Title)

9/10/2010

(Effective Date of Grant)



A PORTION OF SW 1/4 OF THE SW 1/4 OF THE NE 1/4
OF THE SW 1/4 OF SECTION 28 T15N, R20W MDB&M.



DWG NO: 06-6019BASIN-BS1.DWG

**CARSON CITY
PUBLIC WORKS DEPARTMENT**

3505 BUTTI WAY CARSON CITY, NEVADA 89701
PH: 887-2355 FAX: 887-2112

**PRISON HILL
SEDIMENTATION BASIN
RIGHT-OF-WAY**

DESIGNED BY: RF
DRAWN BY: BD
CHECKED BY: BD
SCALE (HORIZ): 1"=50'
DATE: 2010 AUG 11

**FIGURE
1**

ATTACHMENT 1

Prison Hill Sedimentation Basin ROW NVN 087468

Native Seed Mix for Restoration and Reclamation.

The following native species are adapted to the environmental conditions at the site. Availability of the seed for each species may vary. If certain species are not available, then a native species substitute may be used when approved by the BLM office.

Seeding Rate Calculations

Seeding Method: Broadcast
 Acres to seed: < 1.0
 Rate Calculation method: NRCS Seed Rate

Species	Mix %	Standard Seeding Rate(lb/acre)	Standard Seeds/ft2	Actual Seeding Rate(lb/acre)	Actual Seeds/ft2	Total lb PLS	Germ %	Purity %	Total lb. Bulk
antelope bitterbrush	10	50.67	20	5.06	2	5.06	0.90	0.95	6
Sandberg bluegrass	35	1.66	40	0.58	14	0.58	0.80	0.9	1
squirreltail	35	9.07	40	3.17	14	3.17	0.80	0.9	5
winterfat	10	7.86	20	0.78	2	0.78	0.50	0.6	3
woolly mule-ears	10	69.69	40	6.96	4	6.96	0.80	0.9	10

Total Mix: 100

All seed purchased must be certified as "weed free".

Rental:

- a. For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management (BLM) fair market value rental as determined by the authorized officer **unless specifically exempted from such payment by regulation**. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

Regulation:

TITLE 43--PUBLIC LANDS: INTERIOR

CHAPTER II--BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 2800_RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY MANAGEMENT ACT--Table of Contents

Subpart 2806_Rents

Sec. 2806.14 Under what circumstances am I exempt from paying rent?

(a) **You do not have to pay rent for your use if:**

(1) BLM issues the grant under a statute which does not allow BLM to charge rent;

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(2) **You are a Federal, state, or local government** or its agent or instrumentality, unless you are:

(i) Using the facility, system, space, or any part of the right-of-way area for commercial purposes; or

(ii) A municipal utility or cooperative whose principal source of revenue is customer charges;

(3) You have been granted an exemption under a statute providing for such; or

(4) Electric or telephone facilities constructed on the right-of-way were financed in whole or in part, or eligible for financing, under the Rural Electrification Act of 1936, as amended (REA) (7 U.S.C. 901 et seq.), or are extensions of such facilities. You do not need to have sought financing from the Rural Utilities Service to qualify for this exemption. BLM may require you to document the facility's eligibility for REA financing. For communication site facilities, adding or including non-eligible facilities as, for example, by tenants or customers, on the right-of-way will subject the holder to rent in accordance with Sec. Sec. 2806.30 through 2806.44 of this subpart.

(b) The exemptions in this section do not apply if you are in trespass.

[70 FR 21058, Apr. 22, 2005, as amended at 73 FR 65071, Oct. 31, 2008]