



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** November 21, 2019

**Staff Contact:** Darren Schulz, Public Works Director

**Agenda Title:** For Possible Action: Discussion and possible action regarding a Non-Exclusive Easement agreement between the State of Nevada, Division of State Lands and Carson City, granting Carson City a non-exclusive easement for the continued maintenance of the section of South Curry Street located on APNs 003-064-17, 003-301-01, 003-031-15, and 003-302-01. (Darren Schulz, Dschulz@carson.org; Dan Stucky, DStucky@carson.org)

Staff Summary: The section of South Curry Street located on APNs 003-064-17, 003-301-01, 003-031-15, and 003-302-01 was originally conveyed to the State of Nevada in 1925. Later, South Curry Street was constructed and Carson City has maintained the roadway since its construction. The non-exclusive maintenance easement for this section of South Curry Street totals approximately 3.671 acres and is necessary for public access and to allow Carson City to continue to maintain the existing public road. Pursuant to NRS 322.067, the State Land Registrar has waived the fee for the issuance of this easement to a local government for a public road.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** 5 minutes

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### **Proposed Motion**

I move to approve the agreement.

### **Board's Strategic Goal**

Sustainable Infrastructure

### **Previous Action**

N/A

### **Background/Issues & Analysis**

The section of South Curry Street located on APNs 003-064-17, 003-301-01, 003-031-15, and 003-302-01 was originally conveyed to the State of Nevada in 1925. Later, South Curry Street was constructed and Carson City has maintained the roadway since its construction. Today, South Curry Street is classified as a collector street that serves as a significant north-south roadway in Carson City's transportation network. During the State's review, it was noted that the appropriate document for the occupancy and use of State property in this manner is through a Non-Exclusive Easement. The easement totals approximately 3.671 acres and is necessary for public access and to allow Carson City to continue to maintain the existing public road. Pursuant to NRS 322.067, the State Land Registrar has waived the fee for the issuance of this easement to a local government for a public road.

### **Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapter 322

**Financial Information**

Is there a fiscal impact? No

If yes, account name/number: N/A

Is it currently budgeted? No

Explanation of Fiscal Impact: N/A

**Alternatives**

Do not approve the agreement and provide alternate direction to staff.

**Attachments:**

[State Lands- South Curry Street Easement.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)



CFS-2, LW  
Interest:15765  
Project: 6525  
Contract:5045  
Carson City  
A.P.N.: adjacent to 003-064-17, 003-301-01, 003-031-15, & 003-302-01

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  
SOUTH CURRY STREET**

This Non-Exclusive Easement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between the STATE OF NEVADA, acting through the DIVISION OF STATE LANDS, for and on behalf of the DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD & FAMILY SERVICES, hereinafter referred to as GRANTOR, and CARSON CITY, a consolidated municipality, hereinafter referred to as GRANTEE:

**WHEREAS**, GRANTOR owns Carson City Assessor's Parcel Number 003-064-17, 003-301-01, 003-031-15, & 003-302-01; and

**WHEREAS**, GRANTEE, has made application to and wishes to obtain from the GRANTOR an easement for the continued maintenance of the existing public road, commonly known as South Curry Street, situated adjacent to the above referenced assessor's parcel numbers; 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 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 over, across and through a portion of that certain property situate in Section 20, Township 15 North, Range 20 East, as shown in the Assessor’s Parcel Map depicted 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 South Curry Street Legal Description, dated July 2<sup>nd</sup>, 2019, 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:** Pursuant to NRS 322.067, the State Land Registrar has waived the fee for the issuance of this Easement to a local government for a public road, for so long as the easement is being used for a public road.

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 Easement Area 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 and GRANTEE 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 insureds. 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:**

**Lucy Wong, 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 to operate in a functional condition at all times consistent with other Carson City maintained streets.

**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 Public Works Department  
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 it 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 any time 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 in Carson City, Nevada.

**28. ASSIGNMENT OF EASEMENT:** This easement may not be assigned or transferred without prior written approval of the GRANTOR. Such approval will not be unreasonably withheld.

**29. 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 be 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.

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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: \_\_\_\_\_  
CHARLES DONOHUE  
Administrator and State Land Registrar


STATE OF NEVADA    )  
                                  :ss.  
CARSON CITY        )

On \_\_\_\_\_, 2019, personally appeared before me, a notary public CHARLES DONOHUE, Administrator and State Land Registrar, Division of State Lands, who acknowledged that he executed the above document.

\_\_\_\_\_  
NOTARY PUBLIC

**APPROVED as to Form:**

**AARON FORD**  
**Attorney General**

By:  \_\_\_\_\_  
TORI SUNDHEIM  
Deputy Attorney General

Date: 9/6/19 \_\_\_\_\_

**APPROVED:**

**STATE OF NEVADA  
Department of Health and Human Services  
Division of Child and Family Services**

By:   
\_\_\_\_\_  
ROSS ARMSTRONG,  
Administrator

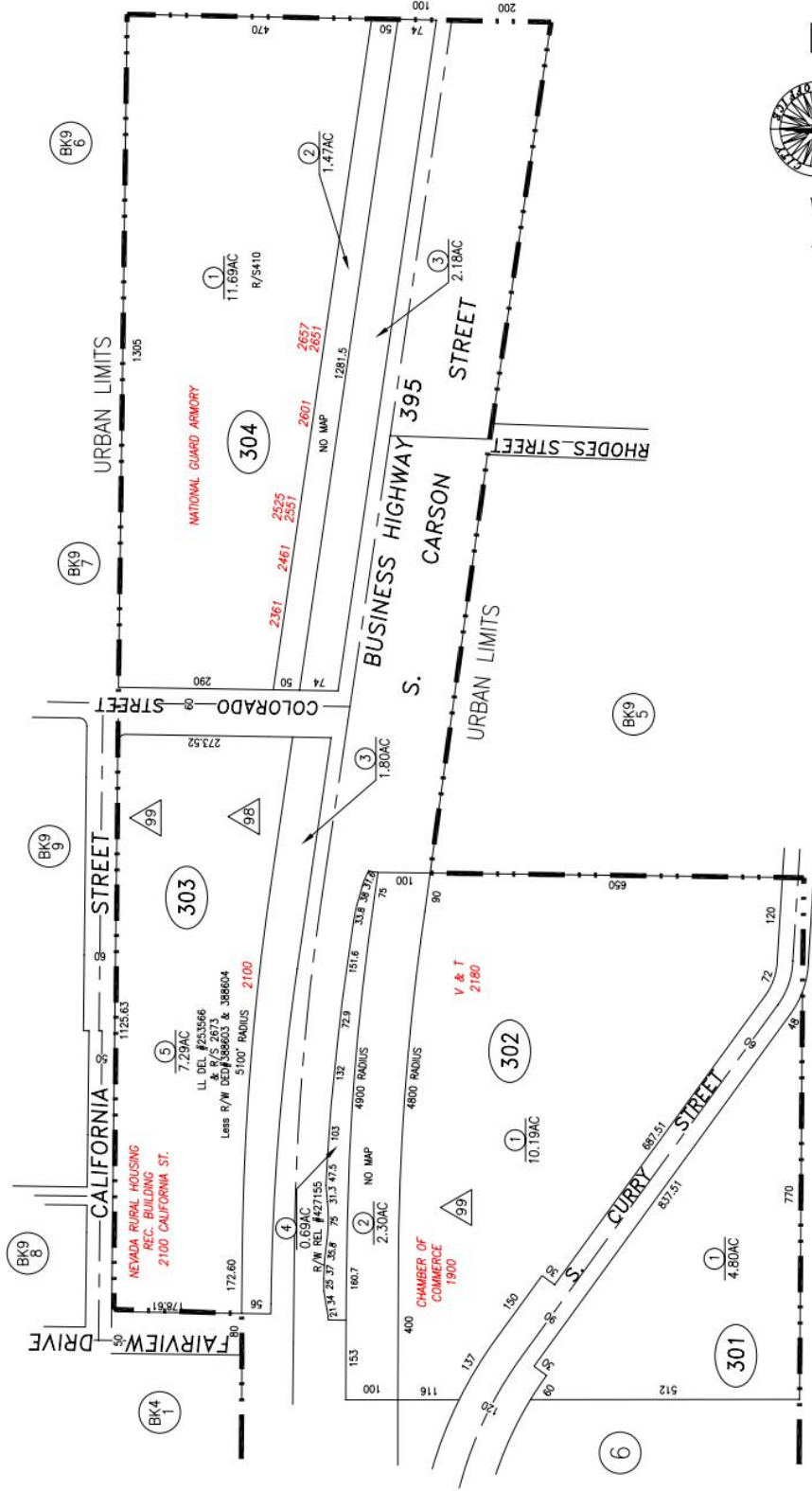
Date: 9/12/19



**EXHIBIT A:  
ASSESSOR'S PARCEL MAP**

3-30

PORTION W1/2 SW1/4 SECTION 20, T.15 N., R.20 E., M.D.B. & M.



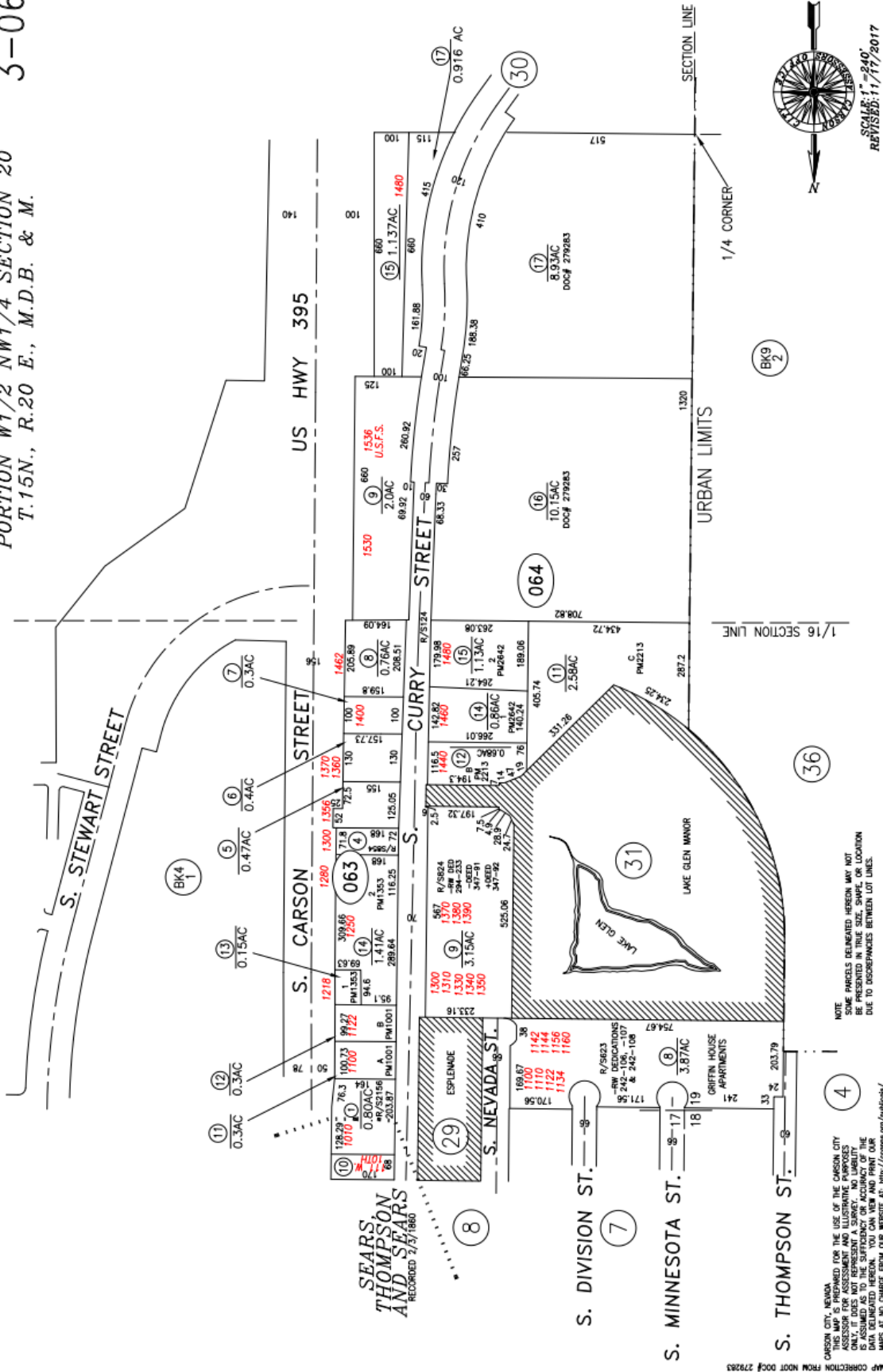
NOTE: PARCELS DELINEATED HEREON MAY NOT BE PRESENTED IN TRUE SIZE, SHAPE OR LOCATION DUE TO DISCREPANCIES BETWEEN LOT LINES. CARSON MAP IS PROVIDED FOR THE USE OF THE CARSON CITY ASSESSOR FOR ASSESSMENT AND ILLUSTRATIVE PURPOSES ONLY. IT DOES NOT REPRESENT A SURVEY. NO LIABILITY IS ASSUMED FOR ANY ERRORS OR OMISSIONS IN THE DATA DELINEATED HEREON. YOU CAN VIEW AND PRINT OUR MAPS AT NO CHARGE FROM OUR WEBSITE AT [WWW.CARSON-CITY.NV.GOV](http://WWW.CARSON-CITY.NV.GOV)

SCALE: 1"=200'  
REVISED: 11/09/2012

△ BUILDING ON LEASED LAND

**EXHIBIT A:  
ASSESSOR'S PARCEL MAP**

PORTION W1/2 NW1/4 SECTION 20  
T.15N., R.20 E., M.D.B. & M. 3-06



NOTE: THE PARCELS DELINEATED HEREON MAY NOT BE PRESENTED IN TRUE SIZE, SHAPE, OR LOCATION DUE TO DISCREPANCIES BETWEEN LOT LINES.

CARSON CITY, NEVADA  
FOR THE USE OF THE CARSON CITY  
ASSESSOR FOR ASSESSMENT AND ILLUSTRATIVE PURPOSES  
ONLY, IT DOES NOT REPRESENT A SURVEY. NO LIABILITY  
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MAPS AT NO CHARGE FROM OUR WEBSITE AT: <http://ccopps.org/publicmap/>

MAP CORRECTION FROM MOST DOC# 279283



**EXHIBIT B:**  
**LEGAL DESCRIPTION**

**CARSON CITY ROAD RIGHT OF WAY**

All that certain real property lying within a portion of Sections 19 and 20, Township 15 North, Range 20 East, M.D.M., Carson City, State of Nevada, shown as County Road Right of Way on a Record of Survey for State of Nevada Planning Board of State Lands, Recorded on July 09, 1965, under File Number 93056, official records of Carson City, State of Nevada, being more particularly described as follows:

**BEGINNING** at a point on the north line of the South Half of the Southwest Quarter of the Northwest Quarter of Section 20, Township 15 North, Range 20 East, M.D.M., whence the S-N One Sixty-fourth Corner of Sections 19 and 20, bears North 89°51'56" West, 627.08 feet distant, per the above said Record of Survey;

**THENCE** along said north line, South 89°51'56" East, 101.23 feet;

**THENCE** southerly along a curve to the left having a radius of 2640.00 feet, an arc length of 15.51 feet and delta of 00°20'12" and a chord of South 09°04'05" West, 15.51 feet;

**THENCE** South 09°14'11" West, 66.25 feet;

**THENCE** South 80°45'49" East, 20.00 feet;

**THENCE** southerly along a curve to the left having a radius of 749.15 feet, an arc length of 165.46 feet and delta of 12°39'16" and a chord of South 02°54'31" West, 165.12 feet;

**THENCE** southerly along a reverse curve to the right having a radius of 810.00 feet, an arc length of 552.16 feet and delta of 39°03'27" and a chord of South 16°06'37" West, 541.53 feet;

**THENCE** South 35°38'20" West, 150.00 feet;

**THENCE** North 54°21'40" West, 30.00 feet;

**THENCE** South 35°38'20" West, 687.66 feet;

**THENCE** southerly along a curve to the left having a radius of 120.00 feet, an arc length of 72.60 feet and delta of 34°39'50" and a chord of South 18°18'18" West, 71.50 feet;

**THENCE** South 00°58'24" West, 163.77 feet;

**THENCE** North 89°51'49" West, 40.59 feet to the west line of said Section 20;

**THENCE** along the west line of said Section 20, North 00°03'11" West, 16.51 feet;

**THENCE** North 89°39'03" West, 19.12 feet;

**EXHIBIT B:**  
**LEGAL DESCRIPTION**

**THENCE** North 00°58'24" East, 148.06 feet;

**THENCE** northerly along a curve to the right having a radius of 180.00 feet, an arc length of 108.90 feet and delta of 34°39'50" and a chord of North 18°18'20" East, 107.25 feet;

**THENCE** North 35°38'20" East, 837.66 feet;

**THENCE** North 54°21'40" West, 30.00 feet;

**THENCE** northerly along a curve to the left having a radius of 690.00 feet, an arc length of 470.36 feet and delta of 39°03'27" and a chord of North 16°06'37" East, 461.30 feet;

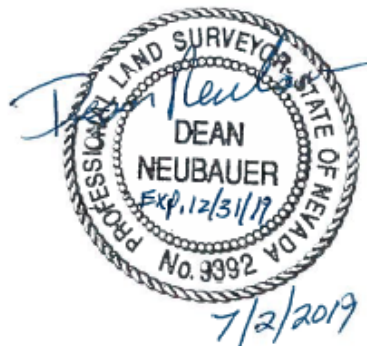
**THENCE** northerly along a reverse curve to the right having a radius of 869.15 feet, an arc length of 191.96 feet and delta of 12°39'16" and a chord of North 02°54'31" East, 191.57 feet;

**THENCE** North 09°14'11" East, 65.75 feet, to the **POINT OF BEGINNING**.

Right of Way contains 3.671 Acres +/-.

**THE BASIS OF BEARING** for this description is identical to a Record of Survey for State of Nevada Planning Board of State Lands, Recorded on July 09, 1965, under File Number 93056, Official Records of Carson City, State of Nevada

Prepared by  
**Lumos & Associates**  
Dean Neubauer, PLS 9392  
308 N. Curry Street, Suite 200  
Carson City, NV 89703



**EXHIBIT B:  
LEGAL DESCRIPTION**

