



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** March 19, 2020

Staff Contact: Darren Schulz, Public Works Director

Agenda Title: For Possible Action: Discussion and possible action regarding a public utility easement (PUE) for access, operation and maintenance of the existing wastewater effluent line located within Brunswick Canyon, over and across APNs 008-531-44 & 008-531-45, and a settlement agreement between Carson City and General Thomas Hill, LLC concerning the PUE. (Darren Schulz, Dschulz@carson.org; Dan Stucky, Dstucky@carson.org)

Staff Summary: General Thomas Hill, LLC recently acquired APNs 008-531-44 & 008-531-45 from T.E. Bertagnolli and Associates. Prior to their ownership of the property, an electronically operated gate was installed by T.E Bertagnolli and Associates on a portion of Brunswick Canyon Road located on APN 008-531-45. On May 29, 2019, the Planning Commission approved a modification to the special use permit for General Thomas Hill, LLC permitting the gate to be closed at night. As a condition of this modification to the special use permit, General Thomas Hill, LLC is required to grant a public utility easement to Carson City for the existing wastewater effluent line located across APNs 008-531-44 & 008-531-45. Additionally, a settlement agreement relating to unresolved litigation from civil action initiated by the City in 1984 has been executed by General Thomas Hill, LLC.

Agenda Action: Formal Action / Motion **Time Requested:** 10 minutes

Proposed Motion

I move to accept the public utility easement and to approve the settlement agreement.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

None

Background/Issues & Analysis

Although not a City-owned right-of-way, Brunswick Canyon Road has been used for public access since at least the early 1900s. Brunswick Canyon Road provides access to over 870 acres of Carson River Canyon Open Space.

In 1984, Carson City filed a Condemnation Complaint to acquire a public utility easement along Brunswick Canyon Road from T.E. Bertagnolli and Associates for access, operation and maintenance of the municipal wastewater effluent pipeline and associated improvements. An Order for Occupancy in favor of the City was filed and court records indicate that distribution for just compensation was paid and received. However, no easement deed was ever recorded. Carson City constructed the wastewater effluent pipeline and associated improvements and has continuously maintained these improvements since their installation, to this date.

An electronically operated gate was installed on a portion of Brunswick Canyon Road by T.E Bertagnolli and Associates. In cooperation with the City, Bertagnolli worked with the City to make improvements to the gate for the benefit of the owner, as well as the City. The intent of the gate is to reduce illegal dumping, vandalism and reduce opportunities for injury during night-time hours.

In 2017, the property was purchased by Poker Brown, a Delaware LLC, and the City entered into discussions with the new property owner regarding public access along Brunswick Canyon Road, the unrecorded public utility easement for the wastewater effluent infrastructure, and operation of the Brunswick Canyon Road gate. In 2018, the property was deeded over to General Thomas Hill, LLC, a new Nevada LLC for the same company. On May 29, 2019, the Planning Commission approved a modification to the special use permit for General Thomas Hill, LLC permitting the gate to be closed at night. As a condition of this modification to the special use permit, General Thomas Hill, LLC is required to execute an easement deed for the public utility easement to Carson City for the existing wastewater effluent line located across APNs 008-531-44 & 008-531-45. Although there is no dispute concerning the City's interest in the easement, execution and recordation of an easement deed ensures finality and avoids the need for any unnecessary or contested filings in court relating to the 1984 condemnation proceeding. Therefore, in addition to the grant of public utility easement, a settlement agreement relating to the unresolved litigation from the City's 1984 civil action has been executed by General Thomas Hill, LLC for the Board's consideration and approval.

Applicable Statute, Code, Policy, Rule or Regulation

N/A

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 accept accept staff's recommendation and propose a modified motion or alternate direction to staff.

Attachments:

[Brunswick Canyon Public Utility Easement.pdf](#)

[Brunswick Canyon Settlement Agreement.pdf](#)

Board Action Taken:

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

(Vote Recorded By)

APN 008-531-44 & 008-531-45

AFTER RECORDING RETURN TO:
STEPHANIE HICKS, REAL PROPERTY MANAGER
CARSON CITY PUBLIC WORKS
3505 BUTTI WAY
CARSON CITY, NEVADA 89701

EASEMENT DEED

THIS DEED, made this ____ day of _____, 2019, General Thomas Hill, LLC, as their interest appears of record, hereinafter called GRANTOR, and CARSON CITY, NEVADA, a CONSOLIDATED MUNICIPALITY, hereinafter called CITY.

WITNESSETH:

The GRANTOR hereby grants to the CITY, for those purposes as contained in Chapter 271 of the Nevada Revised Statutes, a permanent public utility easement for access, operation and maintenance of the municipal waste water effluent pipeline and associated improvements upon, under, over and across certain real property to the CITY; said easement is shown and more fully described as on Exhibit "A", attached hereto and made a part hereof.

TO HAVE AND TO HOLD all and singular the said real property, together with the appurtenances, unto the said CITY and to any heirs, successors and assigns forever.

IN WITNESS WHEREOF said GRANTOR has hereunto signed on the day and year first above written



General Thomas Hill, LLC

STATE OF NV)

COUNTY OF WASHOE)

This instrument was acknowledged before me on this 24 day of FEB, 2019²⁰
by Jeremy Page.





Notary Public

APN 008-531-44 & 008-531-45

CITY:
REVIEWED AND RECOMMENDED BY:

Dan Stucky, City Engineer Date

APPROVED FOR LEGALITY AND FORM:

Carson City District Attorney Date

APPROVED:

Robert Crowell, Mayor Date

ATTEST:

Aubrey Rowlett, Clerk-Recorder Date

September 21, 1983
Rev. July 30, 1986

Exhibit "A"

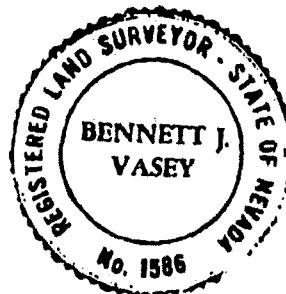
BERTAGNOLLI AND ASSOCIATES PROPERTY

PUBLIC UTILITY EASEMENT

PARCEL 1 - SHEET NO. 20

A parcel of land located within the Southwest One-Quarter (SW $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning which bears North 05° 05' 03" East, 1112.36 feet from the one quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M., thence North 0° 04' 45" West, 23.02 feet; thence along the arc of a curve to the left having a delta angle of 3° 02' 56" and an arc length of 12.24 feet, thence South 60° 43' 28" East, 224.05 feet; thence along the arc of a curve to the left having a delta angle of 30° 23' 20" and an arc length of 281.10 feet; thence South 01° 06' 48" East, 40.00 feet; thence along the arc of a curve to the right having a delta angle of 30° 23' 20" and an arc length of 302.32 feet; thence North 60° 43' 28" West, 213.61 feet; thence North 0° 04' 45" West, 22.96 feet to the Point of Beginning, containing 20,698 square feet, more or less, and less therefrom a portion of Fee Parcel 1 Carson River Road described as attached hereto, a permanent easement of 19,098 sq. ft. (0.438 acres) more or less.



CARSON CITY PR-5

FEE PARCEL 1

CARSON RIVER ROAD

That portion of the Northwest One-Quarter (NW1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada, described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence North $14^{\circ}40'40''$ East 1,089.86 feet to the TRUE POINT OF BEGINNING; thence South $60^{\circ}43'28''$ East 20.00 feet; thence South $29^{\circ}16'32''$ West 80.00 feet; thence North $60^{\circ}43'28''$ West 40.00 feet; thence North $29^{\circ}16'32''$ East 80.00 feet; thence South $60^{\circ}43'28''$ East 20.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 0.073 acre.

September 21, 1983
Rev. July 30, 1986

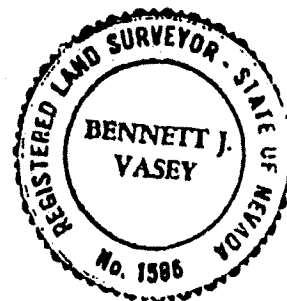
BERTAGNOLLI AND ASSOCIATES PROPERTY

PUBLIC UTILITY EASEMENT

PARCEL 1 - SHEET NO. 21

A parcel of land located within the Southeast One-Quarter (SE $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) and the Southwest One-Quarter (SW $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning, which bears North 31° 45' 29" East, 1091.26 feet from the one-quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M., thence North 1° 06' 48" West, 20.00 feet; thence North 88° 53' 12" East, 186.13 feet; thence along the arc of a curve to the right having a delta angle of 35° 05' 46" and an arc length of 441.03 feet; thence South 56° 01' 02" East, 302.54 feet; thence South 33° 58' 58" West, 40.00 feet; thence North 56° 01' 02" West, 302.54 feet; thence along the arc of a curve to the left having a delta angle of 35° 05' 46" and an arc length of 416.53 feet; thence South 88° 53' 12" West, 186.13 feet; thence North 1° 06' 48" West, 20.00 feet to the Point of Beginning, containing 36,698 square feet, more or less, and less therefrom a portion of Fee Parcel 2 Carson River Road described as attached hereto, a permanent easement of 35,098 sq. ft. (0.806 acres) more or less.



CARSON CITY PR-6

FEE PARCEL 2

CARSON RIVER ROAD

That portion of the Northwest One-Quarter (NW1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada, described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence North $56^{\circ}21'59''$ East 1,475.91 feet to the TRUE POINT OF BEGINNING; thence South $56^{\circ}01'02''$ East 20.00 feet; thence South $33^{\circ}58'58''$ West 80.00 feet; thence North $56^{\circ}01'02''$ West 40.00 Feet; thence North $33^{\circ}58'58''$ East 80.00 feet; thence South $56^{\circ}01'02''$ East 20.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 0.073 acre.

September 21, 1983

BERTAGNOLLI AND ASSOCIATES PROPERTY
PUBLIC UTILITY EASEMENT
PARCEL 1 - SHEET NO. 22

A parcel of land located within the Southeast One-Quarter (SE $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning, which bears North 65° 34' 49" East, 1555.28 feet from the one-quarter corner which is common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M., thence North 33° 58' 58" East, 20.00 feet; thence along the arc of a curve to the left having a delta angle of 67° 41' 52" and an arc length of 448.99 feet; thence North 56° 17' 06" East, 232.61 feet; thence South 33° 42' 54" East, 40.00 feet; thence South 56° 17' 06" West, 232.61 feet; thence along the arc of a curve to the right having a delta angle of 67° 41' 52" and an arc length of 496.25 feet; thence North 33° 58' 58" East, 20.00 feet to the Point of Beginning containing 28,209 square feet, more or less.

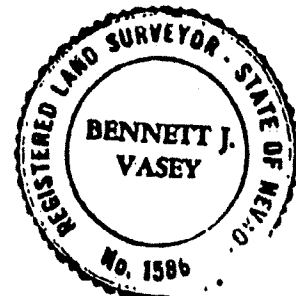


September 21, 1983
Rev. July 30, 1986

BERTAGNOLLI AND ASSOCIATES PROPERTY
PUBLIC UTILITY EASEMENT
PARCEL 1 - SHEET NO. 23

A parcel of land located within the Southeast One-Quarter (SE $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning, which bears North 73° 59' 27" East, 2696.26 feet from the one-quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M., thence South 0° 14' 43" West, 26.27 feet; thence along the arc of a curve to the left having a delta angle of 75° 30' 14" and an arc length of 556.65 feet; thence North 33° 42' 54" West, 40.00 feet; thence along the arc of a curve to the right having a delta angle of 71° 18' 52" and an arc length of 585.00 feet; thence South 0° 14' 43" West, 25.50 feet to the Point of Beginning, containing 23,027 (0.529 acres) square feet, more or less, and less therefrom a portion of Fee Parcel 3 Carson River Road described as attached hereto, for a permanent easement of 21,427 sq. ft. (0.492 acres) more or less.



CARSON CITY PR-7

FEE PARCEL 3

CARSON RIVER ROAD

That portion of the Northwest One-Quarter (NW1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada, described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence North 68°27'03" East 2,399.06 feet to the TRUE POINT OF BEGINNING; thence North 81°21'23" East 20.00 feet; thence South 8°38'37" East 80.00 feet; thence South 81°21'23" West 40.00 feet; thence North 8°38'37" West 80.00 feet; thence North 81°21'23" East 20.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 0.073 acre.

September 21, 1983
Rev. July 30, 1986

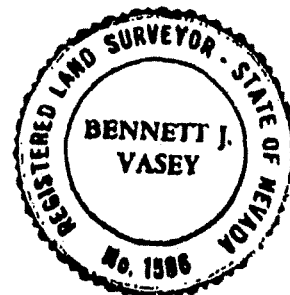
BERTAGNOLLI AND ASSOCIATES PROPERTY

PUBLIC UTILITY EASEMENT

PARCEL 1 - SHEET NO. 25

A parcel of land located within a portion of the Southeast One-Quarter (SE $\frac{1}{4}$) of the Northwest One-Quarter (NW $\frac{1}{4}$) and the Northeast One-Quarter (NE $\frac{1}{4}$) of the Southwest One-Quarter (SW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning which bears North 86° 35' 56" East, 2591.95 feet from the one-quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M.; thence South 0° 14' 43" West, 46.54 feet; thence South 25° 41' 53" West, 74.27 feet; thence along an arc of a curve to the left having a delta angle of 8° 19' 03" and an arc length of 258.40 feet; thence South 17° 22' 50" West, 400.00 feet; thence North 72° 37' 10" West, 40.00 feet; thence North 17° 22' 50" East, 400.00 feet; thence along an arc of a curve to the right having a delta angle of 8° 19' 03" and an arc length of 264.21 feet; thence North 25° 41' 53" East, 158.31 feet; thence South 0° 14' 43" West, 46.54 feet to the Point of Beginning, containing 31,103 square feet more or less, and less therefrom a portion of Fee Parcel 5 Carson River Road described as attached hereto, a permanent easement of 29,503 sq. ft. (0.677 acres) more or less.



CARSON CITY PR-8

FEE PARCEL 5

CARSON RIVER ROAD

That portion of the Northeast One-Quarter (NE1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence South 82°29'23" East 2,464.03 feet to the TRUE POINT OF BEGINNING; thence South 17°22'50" West 20.00 feet; thence North 72°37'10" West 80.00 feet; thence North 17°22'50" East 40.00 feet; thence South 72°22'50" West 20.00 feet to the TRUE POINT OF BEGINNING.

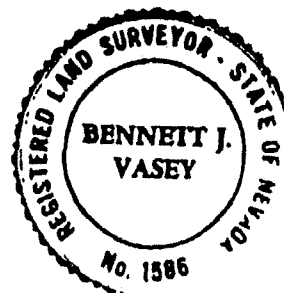
Said parcel contains 0.073 acre.

September 21, 1983
Rev. July 30, 1986

BERTAGNOLLI AND ASSOCIATES PROPERTY
PUBLIC UTILITY EASEMENT
PARCEL 1 - SHEET NO. 26

A parcel of land located within the Northeast One-Quarter (NE $\frac{1}{4}$) of the Southwest One-Quarter (SW $\frac{1}{4}$) and the Southeast One-Quarter (SE $\frac{1}{4}$) of the Southwest One-Quarter (SW $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning, which bears South 60° 10' 04" East, 2447.02 feet from the one-quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M.; thence North 72° 54' 02" West, 20.00 feet; thence North 17° 05' 58" East, 388.64 feet; thence North 17° 22' 50" East, 283.28 feet; thence South 72° 37' 10" East, 40.00 feet; thence South 17° 22' 50" West, 283.18 feet; thence South 17° 05' 58" West, 388.54 feet; thence North 72° 54' 02" West, 20.00 feet to the Point of Beginning, containing 26,873 square feet, more or less, and less a portion of Fee Parcel 6 Valve and Clean Out Facilities at Brunswick Bridge described as attached hereto a permanent easement of 24,073 sq. ft. (0.553 acres) more or less.



CARSON CITY PR-9

FEE PARCEL 6

VALVE AND CLEAN OUT FACILITIES
AT BRUNSWICK BRIDGE

That portion of the Southeast One-Quarter (SE1/4) of the Southwest One-Quarter (SW1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence South 61°02'52" East 2,479.72 feet to the TRUE POINT OF BEGINNING; thence South 17°05'58" West 40.00 feet; thence North 72°54'02" West 80.00 feet; thence North 17°05'58" East 80.00 feet; thence South 72°54'02" East 80.00 feet; thence South 17°05'58" West 40.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 0.147 acre.

September 21, 1983
Rev. July 30, 1986

BERTAGNOLLI AND ASSOCIATES PROPERTY
PUBLIC UTILITY EASEMENT
PARCEL 1 - SHEET NO. 27

A parcel of land located within the Southeast One-Quarter (SE $\frac{1}{4}$) of the Southwest One-Quarter (SW $\frac{1}{4}$) and the Southwest One-Quarter (SW $\frac{1}{4}$) of the Southeast One-Quarter (SE $\frac{1}{4}$) of Section 12, Township 15 North, Range 20 East, M.D.B. & M., described as follows:

Commencing at the Point of Beginning, which bears South 60° 10' 04" East, 2447.02 feet from the one-quarter corner common to Sections 11 and 12, T. 15 N., R. 20 E., M.D.B. & M.; thence South 72° 54' 02" East, 40.00 feet; thence South 17° 05' 58" West, 159.27 feet; thence North 41° 51' 27" West, 93.38 feet; thence North 17° 05' 58" East, 111.11 feet; thence South 72° 54' 02" East, 40.00 feet to the Point of Beginning, containing 10,816 square feet, more or less, and less therefrom a portion of Fee Parcel 6 Valve and Clean Out Facilities at Brunswick Bridge described as attached hereto a permanent easement of 10,016 sq. ft. (0.230 acres) more or less.



CARSON CITY PR-9

FEE PARCEL 6

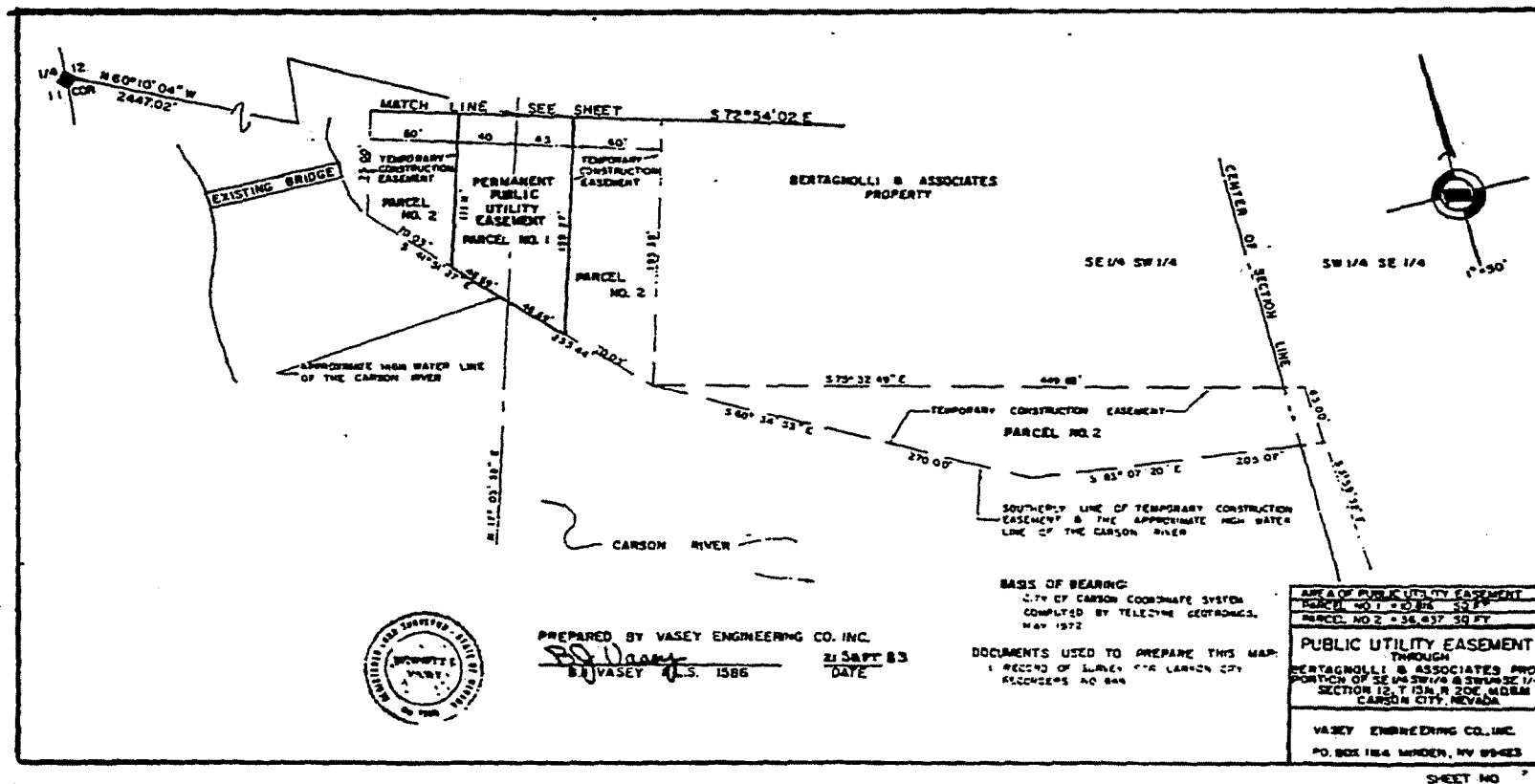
VALVE AND CLEAN OUT FACILITIES
AT BRUNSWICK BRIDGE

That portion of the Southeast One-Quarter (SE1/4) of the Southwest One-Quarter (SW1/4) of Section 12, Township 15 North, Range 20 East, Mount Diablo Base and Meridian in the County of Ormsby, State of Nevada described as follows:

Commencing at the West One-Quarter Corner of said Section 12; thence South 61°02'52" East 2,479.72 feet to the TRUE POINT OF BEGINNING; thence South 17°05'58" West 40.00 feet; thence North 72°54'02" West 80.00 feet; thence North 17°05'58" East 80.00 feet; thence South 72°54'02" East 80.00 feet; thence South 17°05'58" West 40.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 0.147 acre.





AGREEMENT

This Agreement ("Agreement") is entered into by and among the Consolidated Municipality of Carson City ("City") and General Thomas Hill, LLC. City and General Thomas Hill may be collectively referred to as "Parties" or individually as a "Party."

RECITALS

1. On or about August 24, 1984, City filed a civil action against T.E. Bertagnolli in the First Judicial District Court of Nevada, Case No. A-51403, ("Action") involving an eminent domain claim for a public utility easement ("PUE") for a water effluent pipeline. General Thomas Hill, LLC is the successor-in-interest to T.E. Bertagnolli.
2. The Parties acknowledge that in 1984, 1985, or 1986, through the Action, the City deposited adequate compensation for the PUE with the court, which was distributed to the Defendant, T.E. Bertagnolli. Thereafter, the water effluent pipeline was then installed, although the litigation was never finally resolved and nothing was recorded.
3. On May 29, 2019, the Planning Commission approved a modification to General Thomas Hill's special use permit ("SUP"), permitting the gate across Brunswick Canyon Road to be closed at night. As a part of this change in the SUP, General Thomas Hill was required to grant a PUE to Carson City for the water effluent pipeline.
4. In order to settle the Action, comply with the SUP, and clean up the record in this matter, the Parties enter into the following Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth below, and the recitals set forth above, the Parties agree as follows:

5. PUE and Certificate of Permanent Occupancy. General Thomas Hill agrees to grant a PUE to the City. General Thomas Hill's execution of the PUE shall satisfy condition number 16 of General Thomas Hill's SUP. General Thomas Hill also agrees that the City may file and the court may enter a final order of condemnation in Case No. A-51403 under NRS 37.160, and the City may take any other necessary action to resolve and finalize that case, consistent with the grant of the PUE and without imposing further cost on General Thomas Hill. The City will also record the PUE and any other necessary documents.
6. Warranties of Capacity and Authority. Each party represents and warrants that the party is authorized to enter into this Agreement and that the person executing this Agreement on behalf of the Party has full power and authority to enter into this Agreement.

7. Attorney Fees; Costs; Additional Facts. The Parties shall bear their respective attorney fees and costs. This Agreement shall remain binding and effective and shall not be subject to termination, rescission or modification notwithstanding the Parties' discovery of new or different facts or circumstances after the execution of this Agreement.

8. Entire Agreement; Successors in Interest. This Agreement contains the entire agreement between the Parties with regard to the matters set forth herein. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, representatives, insurers, successors, affiliates and assigns.

9. Governing Law and Action for Enforcement. This Agreement shall be construed and interpreted in accordance with the laws of the State of Nevada. Any party may bring an action for breach of this Agreement or enforcement of any provision hereof in the First Judicial District Court of Nevada.

10. Additional Documents. The parties agree to cooperate fully and to execute or authorize the execution of any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

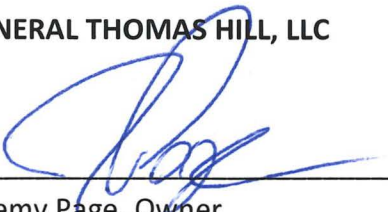
11. Severability. If any provision of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected.

12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which, together, shall be deemed to be one and the same instrument, and any signature transmitted by facsimile or email, or a copy of any signature, shall be treated as an original signature for all purposes.

(Signature blocks on following page.)

IN WITNESS WHEREOF, the parties have executed this Agreement.

GENERAL THOMAS HILL, LLC



Jeremy Page, Owner

2-29-2020

Date

CARSON CITY:

Robert Crowell, Mayor

Date

ATTEST:

Aubrey Rowlett, Clerk-Recorder

Date

Approved as to form:

Deputy District Attorney

Date