

LATE MATERIAL

MEETING DATE 8/6/20

ITEM # 14B

WHEN RECORDED RETURN TO:

U.S. Army Corps of Engineers

Sacramento District

Reno Regulatory Office
300 Booth Street, Room 3050
Reno, Nevada 89509

THIS SPACE FOR RECORDER'S USE ONLY

**DECLARATION OF RESTRICTIONS FOR EAGLE VALLEY CREEK STORM WATER
DETENTION BASINS, ~~Portion of Parcels~~ PORTIONS OF APN 007-531-35 ~~and~~ AND APN 007-
531-36**

THIS DECLARATION OF RESTRICTIONS is made as of _____, 20____, by Carson City, a Consolidated Municipality (“Declarant”).

WHEREAS, Declarant is the owner of certain real property located in Carson City Nevada, described in Exhibits “A & B” attached hereto and incorporated hereby by this reference (hereinafter “Preserve Area”); and

WHEREAS, Carson Tahoe Hospital (hereinafter “CTH”) is in the process of constructing certain improvements on its properties located at 1600 Medical Parkway and 1400 Medical Parkway, in Carson City, Nevada, encompassing Carson City Assessor’s Parcel Nos. (“APNs”) 007-531-46 and 007-531-96, which improvements impact Eagle Valley Creek and the Lakeview Watershed in Carson City, Nevada; and

WHEREAS, the improvements to be made by CTH will require CTH to utilize the Declarant’s existing storm water detention basins located on portions of Carson City APNs 007-531-35 and 007-531- 36, otherwise defined above as the Preserve Area, for wetlands mitigation; and

WHEREAS, the U.S. Army Corps of Engineers (hereinafter “Corps”) requires the Preserve Area to be designated as a wetlands preserve area in perpetuity in accordance with the provisions of a Section 404 Permit Identification # 200325013, as amended, (Exhibit C (hereinafter “Permit”)) issued to CTH by the ~~U.S. Army Corps of Engineers~~; and

WHEREAS, Declarant and CTH have entered into a Watershed and Wetlands Agreement concerning the Preserve Area whereby Declarant has agreed to place restrictions on the Preserve Area; and

WHEREAS, Declarant intends to protect the Preserve Area immediately following the recordation of this Declaration of Restrictions, as wildlife habitat and a wetland preserve area, to be so held in perpetuity subject to restrictions in accordance with the provisions of the

~~Section 404 Permit Identification # 200325013, as amended, (Exhibit C (hereinafter "Permit"))~~ issued to CTH, by the Corps in connection with the surrounding property of which the Preserve Area is a part, and the *Mitigation and Monitoring Plan* (Exhibit "D" (hereinafter "The Plan"));

WHEREAS, this Declaration of Restrictions is intended to implement the provisions of the Permit requiring a binding covenant running with the land, but shall not be construed to impose restrictions in addition to those provided for in the Permit; and

WHEREAS, the Preserve Area consists of both jurisdictional wetland features and associated attendant upland buffer areas (detention basins side-slopes);

WHEREAS, the Declaration of Restrictions will benefit CTH, the Corps, and Carson City, and their successors, in that it will assist in preserving and maintaining the wetland open space in the Preserve Area;

NOW THEREFORE, Declarant declares as follows:

1. Future Permit Applications. The onsite avoided wetlands and any onsite/offsite mitigation areas, created, restored, enhanced or preserved as compensation for work authorized by the Permit, and their attendant upland buffer areas, shall not be made the subject of a future Individual or General Department of the Army permit application for fill or any other development, except for the purposes of enhancing or restoring these areas.

2. Covenant Running with Land. In consideration of the benefits flowing to CTH, the Corps, and Carson City, and for other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Declarant does hereby covenant and agree to restrict, and does by this instrument intend to restrict, the future use of the Preserve Area as set forth below, by the establishment of this Covenant running with the land.

3. Restrictions Concerning the Preserve Areas. Except for those actions necessary to accomplish preservation, maintenance, repair, or enhancement as has been, or in the future is authorized by the Corps, consistent with the Permit and The Plan, no person shall engage in any of the following restricted activities in the Preserve Area:

- a) No discharge of any dredged or fill material shall be done or permitted within the Preserve Area or any portion of such area except as consistent with the terms and conditions of the Permit;
- b) No materials or debris shall be stored or placed (whether temporarily or permanently) within the Preserve Area or any portion of such area;
- c) No plowing or cultivation of the Preserve Area or any portion of such area, shall be done or permitted except by the Declarant or its successors and assigns to the Preserve Area, as described in The Plan and with prior approval from the Corps;

- d) No discharge, dumping, disposal, storage or placement of any trash, refuse, rubbish, grass clippings, cuttings or other waste materials within the Preserve Area or any portion of such area shall be done or permitted;
- e) No leveling, grading or landscaping within the Preserve Area or any portion of such area shall be done or permitted;
- f) No destruction or removal of any natural tree, shrub or other vegetation that exists upon the Preserve Area shall be done or permitted except by the Declarant or its successors and assigns to the Preserve Area, for the purposes of thatch management or the removal of noxious or dangerous plants as necessary to maintain the Preserve Area. Written authorization from the Corps shall be required prior to any such activity;
- g) No motorized vehicles shall be ridden, brought, used or permitted on any portion of the Preserve Area, except as ~~provided for in (a) and (f) above~~ authorized by the Plan and/or any amendments thereto or approved by the Corps or;
- h) No roads, utility lines, trails, benches, equipment storage, or other structures or activities shall occur within the Preserve Area.
- i) No additional untreated stormwater, beyond the current design of the hospital drainage area, shall be discharged in a point source manner directly into the Preserve Area. At a minimum, primary treatment (i.e. detention to settle out suspended solids, oil/water separator, etc) of any additional point source discharge of stormwater shall be required if it is to be discharged into the Preserve Area.

4. Not An Offer to Dedicate: No Rights of Public Use. The provisions of this Declaration of Restrictions do not constitute an offer for public use. This instrument does not constitute an irrevocable offer to dedicate.

5. Successors and Assign Bound. Declarant hereby agrees and acknowledges that the Preserve Area shall be held, sold, conveyed, owned and used subject to the applicable terms, conditions and obligations imposed by this Declaration of Restrictions relating to the use, repair, maintenance and/or improvement of the Preserve Area, and matters incidental thereto. Such terms, conditions and obligations are a burden and restriction on the use of the Preserve Area, as applicable.

The provisions of this Declaration of Restrictions shall (subject to the limitations contained in this Declaration of Restrictions and without modifying the provisions of this Declaration of Restrictions) be enforceable ~~by the Corps~~ as equitable servitudes and conditions, restrictions and covenants running with the land, and shall be binding on the Declarant and upon each and all of its respective heirs, devisees, successors, and assigns, officers, directors, employees, agents, representatives, executors, trustees, successor trustees, beneficiaries and administrators, and upon future owners of the Preserve Area and each of them.

6. Severability. The provisions of the Declaration are severable and the violation of any of the provisions of this Declaration by a Court shall not affect any of the other provisions which shall remain in full force and effect.

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CARSON CITY:

By: _____
Robert Crowell, Mayor

Date

Approved as to Form:

Attest:

Deputy District Attorney

Aubrey Rowlett, Clerk-Recorder

Date

Date

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By: _____
Robert Crowell, Mayor

Date

Approved as to Form:

Attest:

Deputy District Attorney

Aubrey Rowlett, Clerk-Recorder

Date

Date