



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** December 3, 2020

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

**Agenda Title:** For Possible Action: Discussion and possible action regarding a proposed grant of non-exclusive easement from the State of Nevada, Division of State Lands to Carson City for \$250 per year for five years, for a total of \$1,250 which is then subject to a possible fee adjustment unless terminated by either party, for production well #50 and a waterline connection from the well to the city water system located at the Northern Nevada Correctional Center (NNCC), APN 010-281-46. (Darren Schulz, DShulz@carson.org and Robert Nellis, RNellis@carson.org)

Staff Summary: The subject easement is for an existing production well and waterline connection located at the NNCC on Bigelow Drive. The City entered into an agreement on August 11, 2009 with the State to provide water service to NNCC with the provision that the State make available sufficient water rights to meet the needs of NNCC and grant the necessary authorizations and easements to the City for the purpose of drilling, constructing and operating production well #50. The well was constructed by the City in accordance with Carson City Project No. 4.0817 dated March 3, 2009 and the non-exclusive easement is being granted by the State in accordance with the terms of the Agreement.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** Consent

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### **Proposed Motion**

I move to approve and accept, and authorize the Acting Mayor to sign, the grant of non-exclusive easement.

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

Sustainable Infrastructure

### **Previous Action**

October 15, 2009 - the Board of Supervisors awarded contract No. 0809-085 to drill, construct and develop Production Well #50.

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

The City entered into an agreement with the State on August 11, 2009, to provide water service to NNCC with the provision that the State make available sufficient water rights to serve the demand of NNCC. The State agreed the City would charge the standard monthly water rate to supply potable water through the city water system. The State and the City further agreed that the City would drill a production well on State property and that the State would grant the necessary authorizations and easements to facilitate the construction and operation of production well #50. Beyond providing water to NNCC, well #50 provides water to the entire 4880 pressure zone which is the main pressure zone serving the majority of Carson City. The Board of Supervisors awarded a contract to Humboldt Drilling on October 15, 2009, to drill, construct and develop production well #50. A right-of-entry was granted by the State on December 8, 2009 to construct well #50. The State is now

granting a non-exclusive easement for the City to construct, reconstruct, inspect, maintain and repair structures and remove bushes, undergrowth or other obstructions interfering with the operation and maintenance of well #50.

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

NRS Chapter 322

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Water Fund: Fees and Permits Account 5203502-500490

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** The cost for this easement will be \$250 annually for the next five years. The current annual budget for the Water Fund- Fees and Permits Account of \$40,000 is sufficient to cover the \$250 annual fee.

**Alternatives**

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

**Attachments:**

[Well 50 Easement.pdf](#)

[State Agreement\\_NNCC.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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



PRIS-2, AE  
Interest: 15892  
Project: 6617  
Contract: 5143  
Carson City  
A.P.N.: 10-281-46

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 PUBLIC WORKS  
NORTHERN NEVADA CORRECTIONAL CENTER  
WELL SITE 50 PE BIGELOW DR.**

This Non-Exclusive Easement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 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 CARSON CITY PUBLIC WORKS, hereinafter referred to as GRANTEE:

**WHEREAS**, GRANTOR owns CARSON CITY Assessor's parcel number 10-281-46; and

**WHEREAS**, GRANTEE, wishes to obtain from the GRANTOR an easement for an existing well that was constructed and authorized under the Right-of-Entry Authorization granted by the Grantor on December 8, 2009 which serves the Northern Nevada Correctional Center as well as Carson City residents; ; and

**WHEREAS**, GRANTOR and GRANTEE entered into a Cooperative Agreement on August 11, 2009 for municipal water service for the Northern Nevada Correctional Center; 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,” upon, under 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 upon, under, and through a portion of that certain property situate in the S/W ¼ of Section 4, Township 14 North, Range 20 East, as shown on **EXHIBIT A** attached hereto and by reference made a part hereof. The location of the project is further described on 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 Carson City Production Well #50 and Waterline Connection, Project No. 4.0817 dated March, 3<sup>rd</sup>, 2009 attached as **EXHIBIT A**.

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:** For and in consideration of the Project, GRANTEE, its successors and assigns, hereby agree to pay an annual use fee in the amount of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) under Contract 5143 per year to the GRANTOR for the Project [NRS 321.003(2),322.060(2)]. Said fees are to be paid in advance commencing on the execution date of this Non-Exclusive Easement and on or before MAY 15<sup>th</sup> every year thereafter for the entire duration of said Non-Exclusive Easement. This is payable to the STATE OF NEVADA, DIVISION OF STATE LANDS, and is to be mailed to:

**DIVISION OF STATE LANDS  
901 S. STEWART ST., SUITE 5003  
CARSON CITY, NV 89701**

The GRANTOR reserves the right to reevaluate, reassess and adjust the Non-Exclusive Easement fee for the Project every FIVE (5) years. Should GRANTEE dispute a proposed fee increase, the dispute may be resolved by an appraisal of the fair market value of the Non-Exclusive Easement and other actions as required by law. The parties may by mutual agreement select an independent licensed appraiser to determine the fair market value. The GRANTEE shall pay for the appraisal and any associated costs.

4. **LATE PAYMENT FEE:** The annual use fee shall be paid in advance to GRANTOR and shall be due on or before the due date provided herein. Any payment made after this due date shall be subject to a late payment fee in the amount of TWENTY FIVE AND NO/100 DOLLARS

(\$25.00). If fees, including late fees, become more than SIXTY (60) days in arrears, the Non-Exclusive Easement may be terminated by GRANTOR.

5. **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.

6. **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.

7. **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.

8. **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:**

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

**9. 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.

**10. 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.

**11. 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.

**12. 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.

**13. 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.



14. **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.

15. **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.

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

17. **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

18. **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.**

19. **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.

**20. 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.

**21. 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.

**22. 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.

**23. 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.

**24. 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.

**25. 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.

**26. 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.

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

28. **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.

29. **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.

30. **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

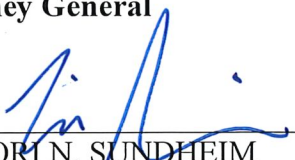
STATE OF NEVADA    )  
                                  :ss.  
CARSON CITY        )

On \_\_\_\_\_, 2020, 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 D. FORD  
Attorney General**

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

Date: 7/23/20

**APPROVED:**

**STATE OF NEVADA  
Department of Corrections**

By   
\_\_\_\_\_  
CHARLES DANIELS  
Director

Date: 8-28-20

**GRANTEE:**  
**CARSON CITY**

**REVIEWED AND RECOMMENDED BY:**

\_\_\_\_\_  
RANDALL RICE, CITY ENGINEER

\_\_\_\_\_  
Date

**APPROVED FOR LEGALITY AND FORM:**

\_\_\_\_\_  
CARSON CITY DISTRICT ATTORNEY

\_\_\_\_\_  
Date

**BOARD APPROVED BY:**

\_\_\_\_\_  
BRAD BONKOWSI, MAYOR PRO TEMPROE

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
AUBREY ROWLATT, CLERK-RECORDER

\_\_\_\_\_  
Date

# EXHIBIT A



per GSB deed recorded 03/04/1910 to State from H.F. Dangberg Land & Livestock Co.

EXHIBIT "A" MAP

REV	DATE	DESCRIPTION	BY	APP'D
<p><b>CARSON CITY PRODUCTION WELL #50 &amp; WATERLINE CONSTRUCTION</b>                  PROJECT No. 4.0817  <b>SPECIAL USE PERMIT</b>                  SITE PLAN                  APN 996-001-05</p>				
<p><b>WATER SERVICE CONNECTION TO NORTHERN NEVADA CORRECTIONAL CENTER (NNCC)</b></p>				

**CARSON CITY PUBLIC WORKS DEPARTMENT**

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

DESIGNED BY: MEJ  
 DRAWN BY: DR  
 CHECKED BY: MEJ  
 DWG NO.: BigelowC\_Top.DWG  
 SCALE (HORIZ.): 1"=40'  
 SCALE (VERT.): NA  
 PLOT DATE: 3-9-09

10-281-46



## EXHIBIT "B"

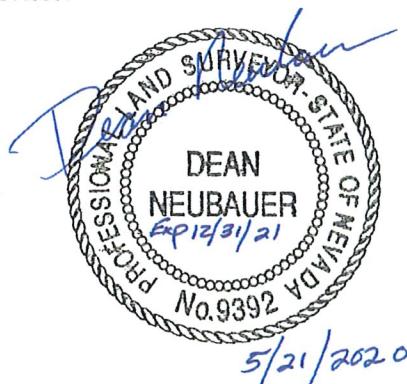
### 60' WATER FACILITIES EASEMENT

A strip of land sixty feet in width, lying thirty feet on both sides of the following described centerline, situate within the Southwest Quarter of Section Four, Township Fourteen North, Range Twenty East, M.D.M., Carson City, State of Nevada, being more particularly described as follows:

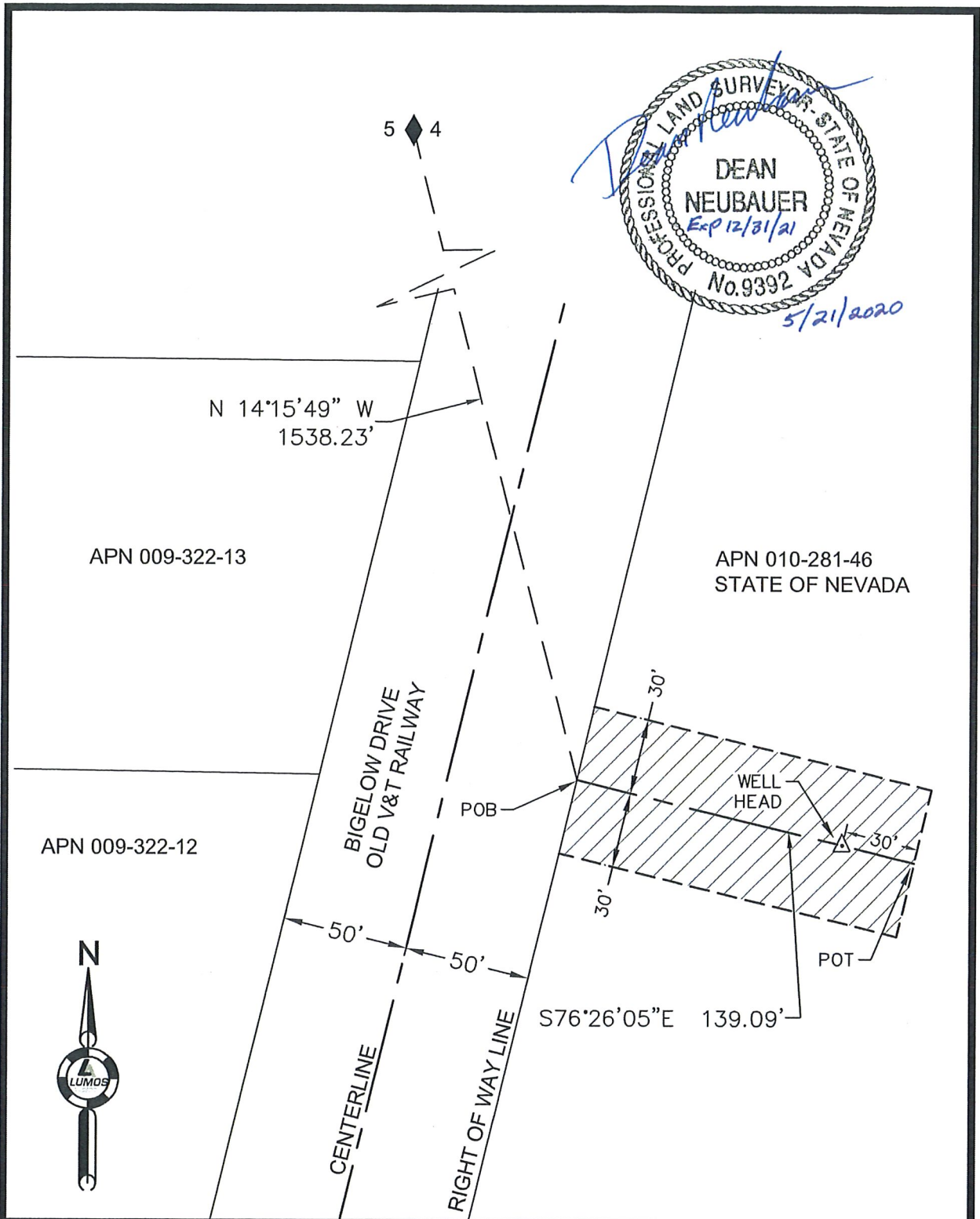
**BEGINNING** at a point on easterly right of way line of the Virginia and Truckee Railway now known as Bigelow Drive, as shown on the Record of Survey for Northern Nevada Correctional Center, recorded as Document No. 151078 in the Official of Records of Carson City, Nevada, from which the West quarter corner of said Section 4 bears North  $14^{\circ}15'49''$  West, 1,538.23 feet;

**THENCE** from the Point of Beginning, South  $76^{\circ}26'05''$  East, 139.09 feet to the Point of Termination of this description.

The basis of bearings of this description is above-mentioned Record of Survey for Northern Nevada Correctional Center.



Prepared by  
**Lumos & Associates, Inc.**  
 Dean Neubauer, PLS 9392  
 308 N. Curry Street, Suite 200  
 Carson City, NV 89703  
 JN.9506.000.7



**LUMOS**  
 & ASSOCIATES  
 308 N. CURRY ST., STE. 200  
 CARSON CITY, NEVADA 89703  
 TEL (775) 883-7077

**EXHIBIT "B"**  
 60' WATER FACILITIES EASEMENT  
 CARSON CITY - WELL 50  
 PORTION OF SEC. 4, T14N, R20E, MDM  
 CARSON CITY NEVADA

Date: MAY, 2020  
 Scale: 1" = 60'  
 Job No: 9506.0007

**COOPERATIVE AGREEMENT  
BETWEEN THE STATE OF NEVADA, DEPARTMENT OF CORRECTIONS  
AND CARSON CITY NEVADA  
FOR WATER SERVICE TO THE NORTHERN NEVADA CORRECTIONAL CENTER**

THIS AGREEMENT, made and entered into this 11<sup>th</sup> day of AUGUST, 2009 by the STATE of NEVADA Department of Corrections, hereinafter referred to as STATE; and CARSON CITY NEVADA, a consolidated municipality under the Nevada Revised Statutes, hereinafter referred to as CARSON.

**WITNESSETH:**

WHEREAS, NRS 277.180 provides that any public agency may contract with any one or more other public agencies to enter into Agreements to perform a governmental service, activity or undertaking which any one or more of the agencies are authorized by law to perform; and

WHEREAS, CARSON owns, operates, and maintains a municipal water system for the benefit of their citizens and has and is currently serving the Northern Nevada Correctional Center; and

WHEREAS, STATE owns and operates an internal water distribution system for the Northern Nevada Correctional Center after receiving water through a water meter from CARSON; and

WHEREAS, STATE owns certain water rights under Certificates of Appropriation No. 6396 (Permit 20435), attached as Exhibit A, and No. 8785 (Permit 27279), Exhibit B; and

WHEREAS, CARSON has the ability to produce the water to support the rights owned by the STATE referred to above from its municipal water system; and

WHEREAS, CARSON and STATE previously had entered into an Interlocal Agreement, dated March 7, 1991 relative to water system improvements which were completed pursuant to that agreement which included CARSON providing water service to the Northern Nevada Correctional Center; and

WHEREAS, CARSON and STATE desire to continue the same water service relationship as previously agreed; and

WHEREAS, CARSON and STATE desire to renew and extend the previous water service agreement for the Northern Nevada Correctional Center.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, it is hereby agreed by and between the parties as follows:

## ARTICLE I

The parties agree as follows:

1. CARSON will provide water service to STATE for the Northern Nevada Correctional Center from CARSON's municipal water system.
2. STATE will make available Carson Valley water rights, as described in Certificates of Appropriation No. 6396 (Permit 20435) and No. 8785 (Permit 27279), to CARSON to offset water required to serve the Northern Nevada Correctional Center. In the event the water demand by STATE exceeds the amounts in Certificates of Appropriation No. 6396 (Permit 20435) and No. 8785 (Permit 27279) then STATE will provide additional State water rights, as approved by the Division of Water Resources, sufficient to meet the demand to serve the Northern Nevada Correctional Center.
3. CARSON will charge STATE the standard City monthly water rate for residential or commercial accounts pursuant to the current rates and charges specified in the March 19, 2009 rate schedule issued by the Carson City Board of Supervisors, as allowed by the Cooperative Agreement between Public Agencies, effective July 1, 1999, for the supply of potable water to state owned property through CARSON's water system. Water rate increases to the STATE will occur July 1 of each year, with notice of the proposed increase to be approved by the Carson City Board of Supervisors together with the estimated increase for the second year of the biennium provided to the STATE by February 15 of each odd numbered year. CARSON agrees not to charge STATE any connection fees for water or sewer service provided to the Northern Nevada Correctional Center by CARSON pursuant to this Agreement.
4. STATE will be fully responsible for maintaining the water rights owned by STATE. STATE and CARSON will cooperate in maintaining the water rights in good standing with the State Engineer. STATE will make waters under Certificates of Appropriation No. 6396 (Permit 20435) and No. 8785 (Permit 27279) available for transfer in the state's name at CARSON's expense to any location within the Carson Valley groundwater basin (as approved by the State Engineer) to better produce and deliver water to the Northern Nevada Correctional Center. STATE will fully cooperate with and support any such transfer if requested by CARSON.
5. If the STATE's Carson Valley water rights, under certificates of Appropriation No. 6396 (Permit 20435) and No. 8785 (Permit 27279), or other acceptable water rights approved by the State Engineer, are not made available for use by CARSON for delivery to the Northern Nevada Correctional Center then CARSON will be under no further obligation to provide water or sewer service to the STATE.
6. CARSON agrees that STATE acting by and through its Nevada Division of State Lands, shall retain, at all times, the absolute ownership of the water rights as described in Certificates of Appropriation No. 6396 (Permit 20435) and No. 8785 (Permit 27279).
7. CARSON proposes to drill a water well on state property and STATE will grant an appropriate authorization and easement to facilitate that process. Appropriate authorization must be obtained from STATE prior to construction.

8. CARSON and STATE agree to maintain and be responsible for their own internal water distribution systems.
9. This AGREEMENT shall not become effective until and unless approved by appropriate official action of the governing body of each Party.
10. NOTICES.
  - a) All written notices and contacts under this Contract shall be delivered to the following officials at the addresses stated:

STATE of NEVADA, Department of Corrections  
Lorraine H. Bagwell, Deputy Director Support Services  
5500 Snyder Ave.  
P.O. Box 7011  
Carson City, NV 89702  
[lbagwell@doc.nv.gov](mailto:lbagwell@doc.nv.gov)

STATE of NEVADA, Division of State Lands  
Robert C. Nellis, Supervisory Land Agent  
901 S. Stewart St, #5003  
Carson City, NV 89701  
[rnellis@lands.nv.gov](mailto:rnellis@lands.nv.gov)

CARSON CITY  
Andrew Burnham, Public Works Director  
3505 Butti Way  
Carson City, NV 89701  
[Aburnham@ci.carson-city.nv.us](mailto:Aburnham@ci.carson-city.nv.us)

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Contractual liability of both parties shall not be subject to punitive damages.
12. INDEMNIFICATION.
  - a) Each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
  - b) The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying

party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

13. **OWNERSHIP OF FACILITIES.** Each entity maintains ownership of its own facilities and no transfer of ownership is implied as part of this Agreement. Ownership notwithstanding, nothing shall preclude CARSON's ability to transfer water rights as provided in Item 4.
14. **REASONABLE CARE.** Each party shall exercise reasonable care in the performance of its obligations and rights under this Agreement to ensure that the other parties' facilities and operations are not impaired or damaged.
15. **PROTECTION OF A PARTY'S SEPARATE FACILITIES.** If any occurrence or conditions during operation or maintenance of the connection between the parties' facilities threaten the physical integrity or operational capability of a party's separate facilities, upon notification to the other party the affected party may stop operation or maintenance of the connection and/or take any action that the affected party determines to be necessary to protect its own separate facilities. Any party may remove part of the connection if required, for emergency repair of its separate facilities provided that such affected connection facilities are restored as soon as possible by the removing party.
16. **RESPONSIBILITY FOR DAMAGES TO FACILITIES.** If damages occur to connected facilities during the operation of connection under this Agreement, then responsibility to pay for any necessary repairs of said damaged facilities shall be as follows:
  - a) If damages occur when the connection is being operated within typical Operating Standards, then responsibility to pay for any necessary repairs to said damaged facilities shall be allocated based on ownership.
  - b) If damages occur when the connection is being maintained and/or is being operated beyond typical Operating Standards, then responsibility to pay for any necessary repairs to said damaged facilities shall be allocated to the party responsible for the nonstandard operations.
17. **FORCE MAJEURE.** No party to this Agreement shall be considered to be in default in the performance of any obligations under this Agreement when a failure of performance shall be due to uncontrollable forces. The Term "uncontrollable force" shall mean any cause beyond the control of the Party unable to perform such obligation, including but not limited to failure or threat of failure of facilities, flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory body or agency of competent jurisdiction, and any non-action by, or failure to obtain the necessary authorization or approvals from a Federal governmental agency or authority, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it is involved or accede to claims or conditions which it believes to be adverse to its business or other interests.
18. **SEVERABILITY.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist

and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

19. **TERMINATION.** This Agreement deals with water resources and the providing of utility service for community water systems. As such, the public interest is not served by the termination by one of the Parties to this Agreement absent an opportunity to resolve the alleged breach.

Except as otherwise provided in this paragraph, this Agreement may be terminated only by the mutual consent and agreement of the Parties. If a Party is in breach of a portion of this Agreement, then the Party alleging such breach shall provide written notice to the other Party specifying the nature of the violation and allowing thirty (30) days for the party in breach to correct the violation. Extensions of time to correct the violation shall be permitted if the violation cannot be cured in thirty (30) days with the exercise of reasonable diligence. If the breach is not corrected within the thirty (30) day period and any extensions thereto, then the non-breaching party may, at its option, terminate the Agreement.

20. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

21. **CONFIDENTIALITY.** Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

22. **PROPER AUTHORITY.**

a) The parties hereto present and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to perform the services set forth in this Agreement.

b) The parties are associated with each other only for the purpose and to the extent set forth in this Agreement, and in respect to performance of services and payment of costs pursuant to this Agreement, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

23. **GOVERNING LAW: JURISDICTION.** This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Agreement.

24. **ENTIRE AGREEMENT AND MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and such are intended as a complete and exclusive statement of

the promises, representations, negotiations, discussions, and other Agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement.

STATE of NEVADA, Department of Corrections

By:   
HOWARD SKOLNIK  
Director

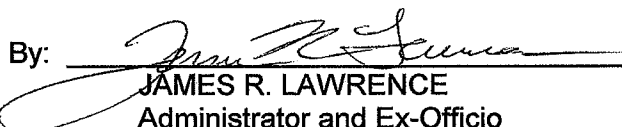
Date: 6/16/09

CARSON CITY NEVADA

By:   
ROBERT CROWELL  
Mayor

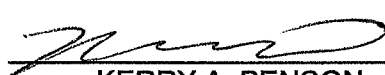
Date: 7/02/09

APPROVED:

By:   
JAMES R. LAWRENCE  
Administrator and Ex-Officio  
State Land Registrar

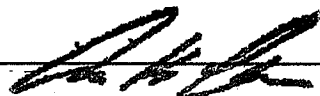
Date: 6/16/09

APPROVED as to Form:  
CATHERINE CORTEZ MASTO  
Attorney General

By:   
KERRY A. BENSON  
Deputy District Attorney General

Date: 6/17/09

APPROVED:  
STATE BOARD OF EXAMINERS

By:   
Date: 8-11-09



THE STATE OF NEVADA  
CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS J. N. Littlefield has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from an underground source through well, pump, storage tank distribution system for general domestic (prison compound) purposes. The point of diversion of water from the source is as follows: SE 1/4 NW 1/4 Sec. 4, T. 14N., R. 20E., M. D. B. & M., or at a point from which the northwest corner of said Sec. 4 bears N. 30° 25' W. a distance of 3251.0 feet situated in Ormsby County, State of Nevada.

Now KNOW YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator State of Nevada by Nevada State Prison  
Post-office address Carson City, Nevada  
\*Amount of appropriation 0.2 c.f.s. but not to exceed 21.2 mg. annually  
Period of use, from January 1st to December 31st of each year  
Date of priority of appropriation May 4, 1962

Description of works of diversion, place and manner of use:  
water is pumped from a screened well by a 20 h.p. 8-stage 6" bowl pump to a 40,000 gallon storage tank, from where it is distributed by pipelines throughout the Minimum Security Compound, Nevada State Prison, located in the SE 1/4 NW 1/4 of Sec. 4, T. 14N., R. 20E., M. D. B. & M., there to be used for domestic purposes for 250 prisoners and 40 staff members, and for lawn irrigation

\* This Certificate is issued subject to the terms of the Permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I ROLAND D. WESTERGARD, State Engineer

Compared jw/ jb of Nevada, have hereunto set my hand and the seal of my office, this  
Recorded 12-4-67 Bk 71 Page 208 20th day of November, A. D. 19 67  
Ormsby County Records. Roland D. Westergard  
State Engineer.

THE STATE OF NEVADA
CERTIFICATE OF APPROPRIATION OF WATER

WHEREAS, Edwin T. Poque, Warden has presented to the State Engineer of the State of Nevada Proof of Application of Water to Beneficial Use, from an underground source through a drilled well, pump, storage tank and pressure system for quasi-municipal and domestic purposes. The point of diversion of water from the source is as follows: SE 1/4 NW 1/4 Section 4, T.14N., R.20E., M.D.B.&M., or at a point from which the NW corner of said Sec. 4 bears N. 43° 28' W., a distance of 2,115.0 feet situated in Carson City County, State of Nevada.

Now Know YE, That the State Engineer, under the provisions of NRS 533.425, has determined the date, source, purpose, amount of appropriation, and the place where such water is appurtenant, as follows:

Name of appropriator: State of Nevada, by Nevada State Prison
Post-office address: Carson City, Nevada
Amount of appropriation: 0.28 c.f.s., but not to exceed 65.7 M.G.A.
Period of use, from: January 1st to December 31st of each year
Date of priority of appropriation: February 12, 1973

Description of works of diversion, manner and place of use:
The water is diverted from a drilled well and pumped through a 4" line to two 40,600 gallon storage tanks, thence through a closed pressure system to the place of use located in portions of the NE 1/4 NW 1/4, SE 1/4 NW 1/4 and NE 1/4 SW 1/4 of Section 4, T.14N., R.20E., M.D.B.&M. for quasi-municipal and domestic purposes (Nevada State Prison).

This certificate is issued subject to the terms of the permit.

The right to water hereby determined is limited to the amount which can be beneficially used, not to exceed the amount above specified, and the use is restricted to the place and for the purpose as set forth herein.

IN TESTIMONY WHEREOF, I, ROLAND D. WESTERGARD, State Engineer

Compared 1k/ns of Nevada, have hereunto set my hand and the seal of my office, this
Recorded BK Page 27th day of May, A.D. 19 76
County Records. State Engineer