



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** April 1, 2021

Staff Contact: Darren Schulz, Public Works Director

Agenda Title: For Possible Action: Discussion and possible action regarding a Grant of Easement from Anne Carvalho to Carson City, located on a portion of 1231 Copper Springs Court, APN 007-071-13 ("Easement"), that is necessary for the Kings Canyon Road and Trailhead Federal Lands Access Program ("FLAP") Project, for the amount of \$5,000 payable by the City to Ms. Carvalho. (Dan Stucky, DStucky@carson.org; Robert Nellis, RNellis@carson.org; Christopher Martinovich, CMartinovich@carson.org).

Staff Summary: The Easement is comprised of an 810 square-foot permanent easement and an 842 square-foot drainage easement. This Easement is required as part of the Kings Canyon Road and the FLAP Project; the Easement is necessary to allow for the reconstruction of Kings Canyon Road which is deteriorating due to its age, erosion and inadequate roadside drainage. The property owner has agreed to grant this permanent Easement for the purposes of constructing, repairing and maintaining the roadway, drainage facilities and other appurtenances associated with Kings Canyon Road as well as to allow the City to make improvements to the driveway approach. As consideration for this easement, the City will make a one-time payment of \$5,000.00 to the property owner.

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

Proposed Motion

I move to approve, and authorize the Mayor to sign, the Grant of Easement as presented.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

The Kings Canyon Road and Trailhead Federal Lands Access Program (FLAP) Project has been presented to the Regional Transportation Commission (RTC) at the following meetings:

At the November 27, 2017 RTC meeting, the RTC Board approved submission of the FLAP Grant for the Kings Canyon Road Project.

At the August 8, 2018 RTC meeting, the RTC Board approved a FLAP Memorandum of Agreement for the Kings Canyon Road Project and Reimbursement Agreement Modification 001 with a total agreement amount of \$3,707,000, of which the City was obligated to pay a 5% local match totaling \$185,350.

At the March 10, 2021 RTC meeting, the RTC approved Reimbursement Agreement Modification 002 increasing the total agreement amount to \$5,110,000, including increasing the City's 5% local match to \$255,500, plus an additional \$30,000 in costs not eligible for federal funding, for a total local match of \$285,500.

Background/Issues & Analysis

In 2018, Carson City was awarded a FLAP grant for the Kings Canyon Road and Trailhead Project. This is a federally funded project to reconstruct approximately one mile of roadway and to design and construct a formal trailhead parking area to improve the access and management of the existing trailhead. The roadway and trailhead are in a state of disrepair. The roadway pavement is deteriorating due to old age and erosion from inadequate roadside drainage, creating safety concerns, and routine maintenance needs. The current trailhead is undersized, lacks access control and amenities, and is rapidly deteriorating due to stormwater erosion and parking along the shoulder. These issues are creating chaotic conditions which could hinder first responders and are having a negative impact to the quality of life for residences along Kings Canyon Road.

On February 9, 2021, the City executed a Right-of-Entry (ROE) Agreement with the property owner that authorizes the City to construct the improvements on the property within a year from the time the ROE was executed as well as commits the owner to signing a permanent Grant of Easement upon approval by the Board of Supervisors, tender of a \$5,000.00 payment from the City to the owner, and execution of the Easement.

As consideration for this Easement, the City will make a one-time payment of \$5,000.00 as compensation. The amount of compensation is based on a market value analysis and comparative methodology. The funding for the compensation is eligible to be used as in-kind match toward the City's required 5% local match for the FLAP grant. The compensation will be paid using the Regional Transportation Fund.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 271.330

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Regional Transportation Fund. Capital Improvements / 2503035-507010: Project P303519006

Is it currently budgeted? Yes

Explanation of Fiscal Impact: The \$5,000.00 one-time payment for the easement will be deducted from the current budget of \$285,500.00 required for local match as part of the FLAP grant.

Alternatives

Do not accept staff's recommendation and propose a modified motion or alternate direction to staff.

Attachments:

[Right-of-Entry_Recorded.pdf](#)

[Easement_Signed.pdf](#)

Board Action Taken:

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

(Vote Recorded By)

Doc # 517560
Recorded 3/10/2021 3:24 PM
Requested By: CARSON CITY
PUBLIC WORKS
Carson City - NV
Aubrey Rowlett Clerk-Recorder
Pg 1 of 5 Fee: \$0.00
Recorded By:CF

APN 007-07-113
Property Address: 1231 Copper Springs Court

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

RIGHT OF ENTRY AGREEMENT

This RIGHT OF ENTRY AGREEMENT ("Agreement") is made by and between Richard D Grundy Irrevocable Dec. Trust ("Owner"), which is the owner(s) of the real property located at 1231 Copper Springs Court, Assessor's Parcel Number: 007-07-113, ("Property"), and CARSON CITY, a consolidated municipality and political subdivision of the State of Nevada ("City"). Owner and City may be hereinafter referred to individually as "Party" and collectively referred to as "Parties."

RECITALS

WHEREAS, City received a federal grant for the purpose of reconstructing or improving a public roadway known as Kings Canyon Road, including the addition of improvements to roadway pavement, drainage facilities, the trailhead, and other improvements that will benefit the Owner ("Improvements"); and

WHEREAS, City is a consolidated municipality created under the laws of the State of Nevada and as a local government has the legal authority to construct and improve roadways for the benefit of the City and for the public; and

WHEREAS, access to Owner's Property will be necessary to construct the Improvements, and Owner wishes to cooperate with City to enable the Improvements; and

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and other good and valuable consideration, the Parties agree as follows:

TERMS

1. **Right of Entry.** Owner hereby grants to City the right to enter upon the Property for the purpose of constructing and maintaining the Improvement and to do all things necessary to construct, maintain, and install the Improvements, including but not limited to ingress, egress, constructing, installing, inspecting, repairing, maintaining, removing, or replacing the Improvement or any portion thereof. This right of entry shall be limited to those portions of the Property depicted in the materials attached hereto as "Exhibit B" and which is made a part of this Agreement and includes roadway pavement, roadway shoulder and embankment, pavement markings, traffic signs, paved driveway approach, drainage culvert underneath the paved driveway approach, and drainage ditches and slopes associated with Kings Canyon Road..

2. **Authority to Grant Right of Entry.** Owner represents and warrants that the person(s) executing this Agreement have full power and legal authority to enter into this Agreement and are authorized by law to perform the services set forth herein.

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3. **Indemnification.** To the fullest extent permitted by law, City shall indemnify, hold harmless and defend, not excluding Owner's reasonable right to participate, Owner from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of City, their officers, employees and/or agents arising out of performance of this Agreement. 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 herein. This Indemnification obligation is conditioned upon receipt of written notice by City within thirty (30) days of Owner's receipt of notice of an actual or pending claim or cause of action. City shall not be liable or otherwise obligated for any attorneys' fees and costs if Owner elects to participate with legal counsel of Owner's own choosing.

4. **Construction of Improvements.** All Improvements contemplated by this Agreement shall be designed and constructed in accordance within customary engineering practices required by City.

5. **Scheduling.** City and Owner will coordinate and cooperate with each other as reasonably feasible in scheduling construction of the Improvements.

6. **Term.** This Agreement shall be effective for a period of one year from the date of the last authorized signature. City may extend this Agreement for an additional one year by providing notice of City's election to extend before the termination of this Agreement.

7. **Owner's Ingress and Egress.** Construction by City, or City's agents, or any other activities of City, will not hinder Owner's ingress and egress to or from the Property, or Owner's improvements on the Property, and will not hinder the customary uses of doors and entrances installed in said improvements, which shall include, without limitation, the preservation of sufficient space surrounding all doors and entrances to allow for the movement of large items in and out of the improvements.

8. **Further Easements.** Owner acknowledges that City lawfully possesses a valid easement or other rights to right-of-way for the existing King's Canyon Road. Owner agrees to sign and City will record a permanent right-of-way easement, or other conveyance of real property, modifying the existing right-of-way held by City for the location of the new roadway and all Improvements.

9. **Owner Compensation.** To the extent that Owner is entitled to receive just compensation for any necessary right-of-way conveyed to the City, Owner hereby accepts the City's offer of just compensation in the amount of 5,000.00 to be paid following approval of the easement and compensation, and execution of the GRANT OF EASEMENT by the Carson City Board of Supervisors. Owner hereby releases City from any obligation to appraise the revised right-of-way.

10. **Further Assurances.** Owner and City will do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement, and the transactions and Improvements contemplated herein.

11. **Breach.** It is further understood and agreed that if the Owner or the City fails, neglects, or refuses to do or perform any act or thing herein covenanted and agreed to be done or performed, such failure, neglect, or refusal will constitute a breach of this Agreement. If the Owner or the City fails, neglects, or refuses to cure the breach upon the request of the other party, such other party, at its option,

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Property Address: 1231 Copper Springs Court

may correct such breach and thereupon recover from the other party the cost thereof or may require the specific performance by the other party of all the terms, conditions, and covenants of this Agreement. The foregoing will be in addition to and exclusive of any other remedy now or hereafter provided by law, and the pursuit of any right or remedy will not be construed as an election.

12. **Successors and Assigns.** All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns, as the case may be, of the respective parties.

13. **Limited Liability.** City does not waive and intends to assert any and all available NRS chapter 41 immunity in all cases. The contract liability of the Parties under this Agreement does not include punitive damages or liquidated damages. In the event a Party is awarded attorney's fees under this Agreement for any reason, the rate applied to recoverable attorney's fees shall not exceed the rate of \$125 per hour.

14. **Notices.** All notices or other communications required or permitted to be given under this Agreement must be in writing and shall be deemed to have been duly given if delivered personally by hand, by facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to Owner at that the following address:

Anne Carvalho
5838 Laguna Trail Way
Elk Grove, CA 95758
carvalho.anne@yahoo.com

or to City at the following address:

Real Property Manager
Carson City Public Works
3505 Butti Way
Carson City, NV 89701
Tel: (775) 887-2355
Fax: (775) 887-2112

15. **Entire Agreement; Modification.** This Agreement is the entire agreement between the parties, and no modification shall be binding unless made in writing and signed by both parties.

16. **Severability.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement will be construed as if the provision did not exist, the provision will not be construed to render any other provision or provisions of this Agreement unenforceable, and the remaining terms of this Agreement will continue in full force and effect.

17. **Nevada Law; Jurisdiction.** The law of the State of Nevada applies in interpreting and construing this Agreement. The Parties consent to the jurisdiction of, and agree that disputes will be resolved by, the courts of the First Judicial District Court of the State of Nevada in Carson City.

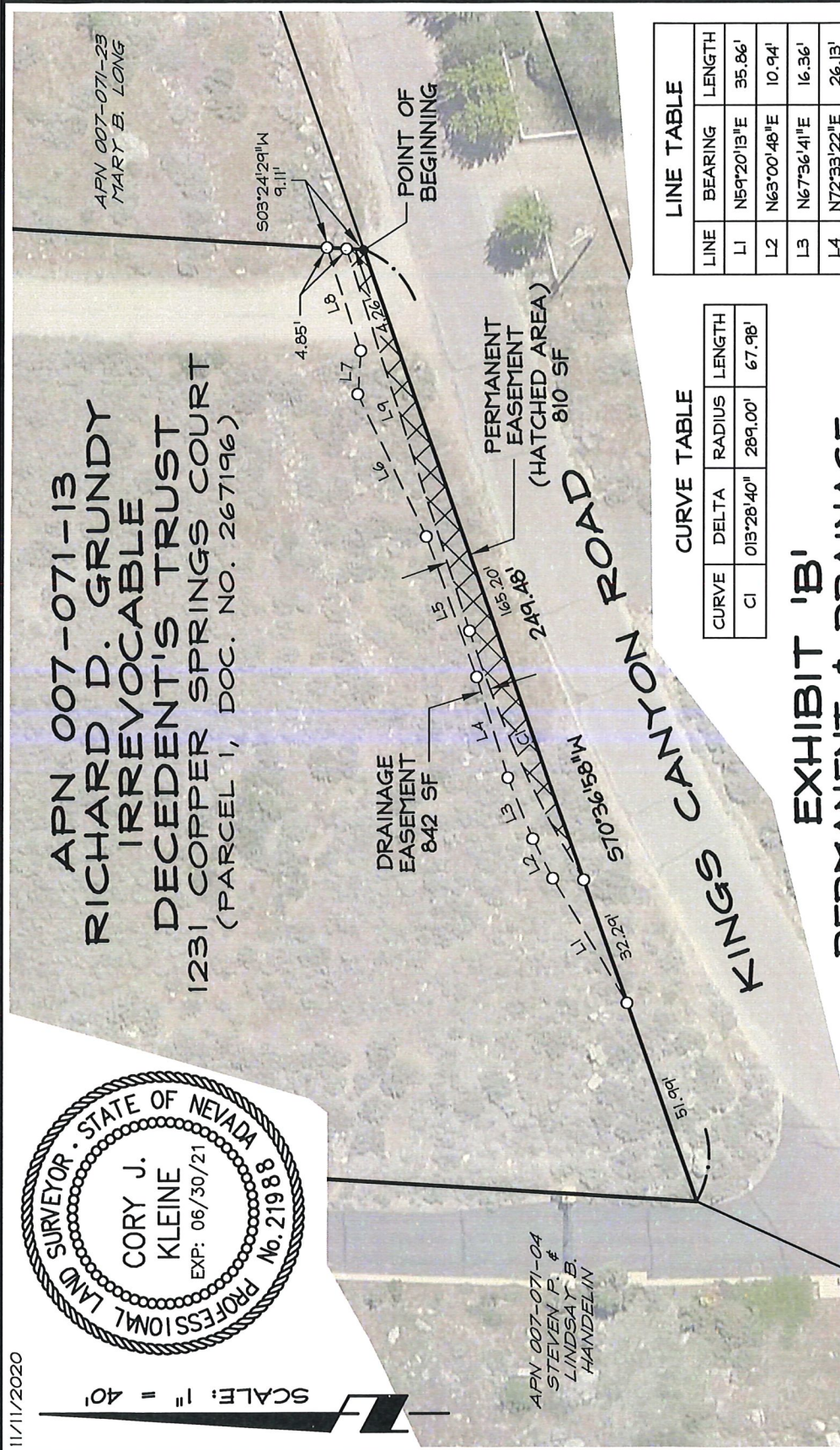
18. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Agreement.

11/11/2020



SCALE: 1" = 40'

APN 007-071-13
 RICHARD D. GRUNDY
 IRREVOCABLE
 DECEDENT'S TRUST
 1231 COPPER SPRINGS COURT
 (PARCEL 1, DOC. NO. 267196)



APN 007-071-04
 STEVEN P. &
 LINDSAY B.
 HANDELIN

APN 007-071-23
 MARY B. LONG

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH
CI	013°28'40"	2891.00'	67.98'

LINE TABLE

LINE	BEARING	LENGTH
L1	N59°20'13"E	35.86'
L2	N63°00'48"E	10.94'
L3	N67°36'41"E	16.36'
L4	N72°33'22"E	26.13'
L5	N70°14'49"E	36.98'
L6	N64°00'53"E	39.13'
L7	S86°17'05"E	10.78'
L8	N71°47'04"E	26.83'
L9	S72°00'00"W	99.35'

EXHIBIT 'B'
PERMANENT & DRAINAGE
EASEMENT
 RICHARD D. GRUNDY IRREVOCABLE
 DECEDENT'S TRUST
 (APN 007-071-13)
 CARSON CITY, NEVADA

R/O Anderson
 NIKKI.ROANDERSON.COM



MINDEN
 1605 Emeraldale Ave
 P.O. Box 2224
 Minden, NV 89423
 T: 775.782.7084
 F: 775.782.7084

APN 00707113

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

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made this 4th day of February 2021 by and between Richard D Grundy Irrevocable Dec. Trust ("Grantor(s)"), as their interest appears of record, and Carson City, Nevada, a consolidated municipality and political subdivision of the State of Nevada ("City").

WITNESSETH:

In consideration of Five Thousand Dollars and 00/100 (\$5000.00) paid, and other good and valuable consideration, the Grantor(s) hereby grant to the City, for those purposes as contained in Chapter 271 of the Nevada Revised Statutes, a permanent easement, drainage easement and right-of-way for a roadway and associated improvements upon, under, over, and across certain real property; said easements are shown and more fully described in Exhibit "A", "B" and "C", attached hereto and made a part hereof.

The City shall have the right to enter the easements at will for access to and to install, construct, inspect, repair, maintain, remove, and replace, in whole or in part, or take any other action regarding, the roadway and associated improvements. Maintenance for all roadway and associated improvements within the easements, including the roadway pavement, roadway shoulder and embankment, pavement markings, traffic signs, paved driveway approach, drainage culvert underneath the paved driveway approach, and drainage ditches associated with Kings Canyon Road, will be the responsibility of the City. Maintenance for all private improvements, excluding improvements specified as City responsibility, will be the responsibility of the property owner as is consistent with the delegated responsibilities of private property owners in the Carson City Municipal Code. The City may install certain appurtenances that would support the safe operation, management, and maintenance of the roadway and drainage facilities. The City will construct a paved driveway of a width not less than 20 feet that will maintain ingress and egress for passenger vehicles and smaller-sized delivery trucks (e.g., FedEx, UPS, or garbage) in conformance with Carson City driveway standards. The public shall also have the right to access the roadway and appurtenances. The easement shall run with the land and bind each party's heirs, executors, representatives, successors, and assigns.

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.

