

Item # 5

**City of Carson City  
Agenda Report**

**Date Submitted:** April 10, 2007

**Agenda Date Requested:** April 19, 2007

**Time Requested:** 5 Minutes

**To:** Mayor and Supervisors

**From:** Public Works Engineering

**Subject Title:** Action on a resolution declaring the public interest and necessity in the authorization of a lawsuit to exercise the power of eminent domain to an easement of approximately 372 square feet of land which is a portion of APN 09-191-11 and to an easement of approximately 657 square feet of land which is a portion of APN 09-287-02 Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur for the construction of a sanitary sewer line from the east side of South Carson Street in the abandoned Patrick Street alignment to the west side of South Carson Street and to authorize a stipulation to entry on to the land, and to authorize all other actions necessary to accomplish the taking.

**Staff Summary:** As a part of Phase 2 of the Carson City Freeway, this sewer extension was identified as the means to provide sanitary sewer service to the area generally described as south of Clearview Drive and West of Carson Street. The project was on the City's Capital Improvement list to be funded by the Sewer Fund. Because of the necessity to get the sewer line installed, protracted negotiations without the right of entry will delay the project.

**Type of Action Requested:** (check one)  
 Resolution                       Ordinance  
 Formal Action/Motion             Other (Specify)

**Does This Action Require a Business Impact Statement:**  Yes  No

**Recommended Board Action:** I move to approve Resolution 2007-R-\_\_\_\_, a resolution declaring the public interest and necessity in the authorization of a lawsuit to exercise the power of eminent domain to an easement of approximately 372 square feet of land which is a portion of APN 09-191-11 and to an easement of approximately 657 square feet of land which is a portion of APN 09-287-02 Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur for the construction of a sanitary sewer line from the east side of South Carson Street in the abandoned Patrick Street alignment to the west side of South Carson Street and to authorize a stipulation to entry on to the land, and to authorize all other actions necessary to accomplish the taking.

**Explanation for Recommended Board Action:** Discussions have been held with the property owner about the location and necessity of the project but we have not been able to come to a satisfactory conclusion. The property owners wish to identify additional comparable properties to determine value. Time is of the essence in that there have been septic tank failures in the area that this sewer line would serve.

Through contact with Ms. Maria Dufur, the city sent the property owners a written offer to purchase the easement for \$10,960.00. Discussions between staff and the property owners have not resulted in agreement. The City has attempted to purchase the easements and have been in negotiations since July of 2006. The owners had agreed to sell the easements, but the conditions of sale are not acceptable, specifically, the owners would not warrant a clear title nor would they allow immediate entry, both of which are essential. Eminent domain is therefore the last resort of the city to acquire the property

**Applicable Statue, Code, Policy, Rule or Regulation:** Eminent Domain Procedures

**Fiscal Impact:** \$10,960.00

**Explanation of Impact:** N/A

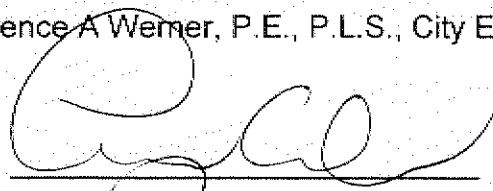
**Funding Source:** Sewer Fund

**Alternatives:** Do not authorize the resolution.

**Supporting Material:** Condemnation Resolution, Affidavit of Lawrence A. Werner Regarding Property Value

**Prepared By:** Lawrence A Werner, P.E., P.L.S., City Engineer

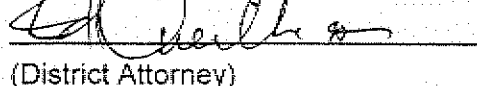
**Reviewed By:**

  
\_\_\_\_\_  
(City Engineer)

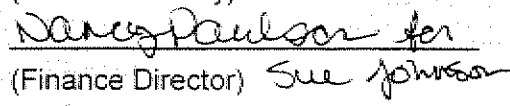
Date: 4/14/07

  
\_\_\_\_\_  
(City Manager)

Date: 4/11/07

  
\_\_\_\_\_  
(District Attorney)

Date: 4/11/07

  
\_\_\_\_\_  
(Finance Director) Sue Johnson

Date: 4/11/07

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
2) \_\_\_\_\_ \_\_\_\_\_  
\_\_\_\_\_ \_\_\_\_\_  
\_\_\_\_\_ \_\_\_\_\_  
\_\_\_\_\_ \_\_\_\_\_

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



DWG NO:

HORIZ: 1" = 100'

CARSON CITY  
ENGINEERING DIVISION

EXHIBIT C  
SANITARY SEWER EASEMENT

DESIGNED BY: DR/LW  
DRAWN BY: DR  
CHECKED BY: LW  
SCALE (HORIZ): 1"=100'  
DATE: 11-15-08

EXHIBIT

C

3505 BUTTI WAY CARSON CITY, NEVADA 89701  
PH: 887-2355 FAX: 887-2154

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION DECLARING THE PUBLIC INTEREST AND NECESSITY IN THE AUTHORIZATION OF A LAWSUIT TO EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE AN EASEMENT TO APPROXIMATELY 375 SQUARE FEET OF LAND WHICH IS A PORTION OF APN 009-191-11 AND APPROXIMATELY 657 SQUARE FEET OF LAND WHICH IS A PORTION OF APN 009-287-02, OWNED BY MARIA DUFUR, JOE L. DUFUR, ALBERT DUFUR AND MICHAEL DUFUR, FOR THE CONSTRUCTION OF A SANITARY SEWER LINE AND TO AUTHORIZE A STIPULATION TO ENTRY ON TO THE LAND, AND TO AUTHORIZE ALL OTHER ACTIONS NECESSARY TO ACCOMPLISH THE TAKING.

WHEREAS, Carson City is authorized by NRS 37.010 and Sec. 2.150 of the Carson City Charter to exercise the power of eminent domain over property within Carson City; and

WHEREAS, an existing sanitary sewer line terminates on the east side of South Carson Street; and

WHEREAS, construction of the Patrick Street Sewer line would provide public sewers to the west side of South Carson Street south of Overland Street and North of US 50 West and is hereinafter referred to as the Project; and

WHEREAS, the Project has been studied by city officials who have determined that the extension of the sanitary sewer line as contemplated by the Project causes the least private injury while still accomplishing the public purposes of enhancing the city's sanitary sewer system and improving public health; and

WHEREAS, acquisition of an easement from certain parcels of real property not presently owned or controlled by the city is needed for the Project; and

WHEREAS, Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur (and possibly others unknown to the City) are the owners of a parcel of land in Carson City which is hereinafter referred to as the Owners' Parcel and is known APN 009-191-11, is approximately 35,003 square

feet in size; and

WHEREAS, Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur (and possibly others unknown to the City) are the owners of a parcel of land in Carson City which is hereinafter referred to as the Owners' Parcel and is known APN 009-287-02, is approximately 7,449 square feet in size; and

WHEREAS, negotiations with the current owners of the Owners' Parcels for the acquisition through purchase of the property interests necessary for the Project have not succeeded;

WHEREAS, an administrative value determination of the property was made by Lawrence A. Werner, P.E., P.L.S., Carson City Engineer, on October 12, 2006, which determined that the just compensation for the taking of the easement from Necessary Parcel APN 009-191-11 is Three Thousand Six Hundred Dollars (\$3,600.00) and for the taking of the easement from Necessary Parcel APN 009-287-02 is Seven Thousand Three Hundred Sixty Dollars (\$7,360.00) for a total amount of Ten Thousand Nine Hundred Sixty Dollars (\$10,960.00).

NOW, THEREFORE BE IT RESOLVED, by the Board of Supervisors of Carson City ("the Board") as follows:

1. The professional opinions of city officials and the information and testimony presented to the board of supervisors at the public hearing held on the day of the adoption of this resolution demonstrate that the public interest and necessity require the acquisition of a sanitary sewer easement from, certain parcels of real property for public use for the purpose of constructing, operating and maintaining certain portions of the Project which parcels are called Necessary Parcels;

2. The easements shown on the shaded portion of Exhibit B and Exhibit B1 and described by the legal description attached as Exhibit A and Exhibit A1 are easements from the

Necessary Parcels, and are presently portions of the Owners' Parcels. The board finds it necessary that the city acquire the easements from to the Necessary Parcels.

3. The Project is to be located and is planned in a manner which is most compatible with the greatest public good and the least private injury and not harmful to historic landmarks or features.

4. The property interests in the Necessary Parcels as specified above will be used for a public use as a sanitary sewer and are necessary for the city's sanitary sewer use.

5. The Board directs that the power of eminent domain be exercised against any and all necessary parties to acquire the easements from the Necessary Parcels and the board finds that the acquisition is for the purpose of construction, repair and maintenance of certain portions of the Project.

6. The Board approves the taking of necessary action to accomplish the taking of the easements from the Necessary Parcels as stated above including, without limitation, obtaining any additional property appraisals or updates to existing appraisals, the hiring of experts to assist in the preparation and trial of the suit, the filing of a lawsuit in the proper court, the filing of a stipulation permitting the city to take possession of the Necessary Parcels, obtaining the right of entry which may be necessary for construction of the Project, and the deposit with the court of a sum of money equal to the just compensation for the taking of the Necessary Parcels as determined by Lawrence A. Werner, P.E., P.L.S., Carson City Engineer, on October 12, 2006, namely Three Thousand Six Hundred Dollars (\$3,600) on Necessary Parcel APN 009-191-11 and Seven Thousand Three Hundred Sixty Dollars (\$7,360.00) on Necessary Parcel APN 009-287-02.

7. The exhibits to this resolution consist of the following: Exhibit A and Exhibit A1 (Legal descriptions), and Exhibit B and Exhibit B1 (Map to Support Legal Description).

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

AYES: Supervisors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAYES: Supervisors \_\_\_\_\_

ABSENT: Supervisors \_\_\_\_\_

\_\_\_\_\_  
Marv Teixeira, Mayor

ATTEST:

\_\_\_\_\_  
Alan Glover, Clerk/Recorder



**LEGAL DESCRIPTION**

**EXHIBIT A  
(Public Utility Easement on APN 9-191-11)**

All that certain real property located within a portion of the Northeast 1/4 of Section 31, Township 15 North, Range 20 East, Mount Diablo Baseline and Meridian. Being more particularly described as follows starting at the Southwest corner of the left over parcel as shown on parcel map 2204 for Harris Homes, Inc. as file No. 199378 Official Records of Carson City, Nevada, which is located on the east Right-of-Way of Highway 395.

**THE POINT OF COMMENCEMENT,**

**THENCE** leaving said Right-of-Way S 89° 58' 39" E; 51.71 feet along the south line of said parcel map to the east line of said Section 31, **THE TRUE POINT OF BEGINNING.**

**THENCE** S 89° 58' 39" E; 30.00 feet along said south line to the end of the existing Public Utility Easement

**THENCE** S 00° 03' 20" W; 12.50 feet along said Public Utility Easement,

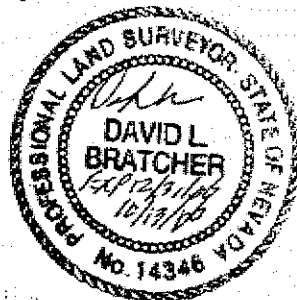
**THENCE** N 89° 58' 39" W; 30.00 feet to the East line of said Section 31.

**THENCE** N 00° 03' 20"E; 12.50 feet along said east line to **THE TRUE POINT OF BEGINNING**

**CONTAINING** 375 square feet, more or less.

Prepared by:

David L. Bratcher  
Lumos & Associates  
800 E. College Pkwy  
Carson City, NV 89706





**LEGAL DESCRIPTION**

**EXHIBIT A2  
(Public Utility Easement on APN 9-287-02)**

All that certain real property located within a portion of the Northeast 1/4 of Section 31, Township 15 North, Range 20 East, Mount Diablo Baseline and Meridian. Being more particularly described as follows starting at the Southwest corner of the left over parcel as shown on parcel map 2204 for Harris Homes, Inc. as file No. 199378 Official Records of Carson City, Nevada, which is located on the east Right-of-Way of Highway 395.

**THE TRUE POINT OF BEGINNING,**

**THENCE** leaving said Right-of-Way S 89° 58' 39" E; 51.71 feet along the south line of said parcel map to the east line of said Section 31,

**THENCE** S 00° 03' 20" W; 12.50 feet along said east line,

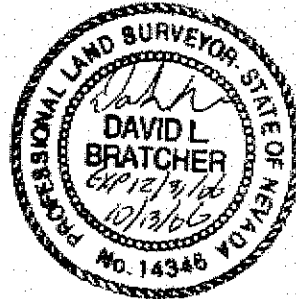
**THENCE** N 89° 58' 39" W; 53.41 feet to the said east Right-of-Way of Highway 395,

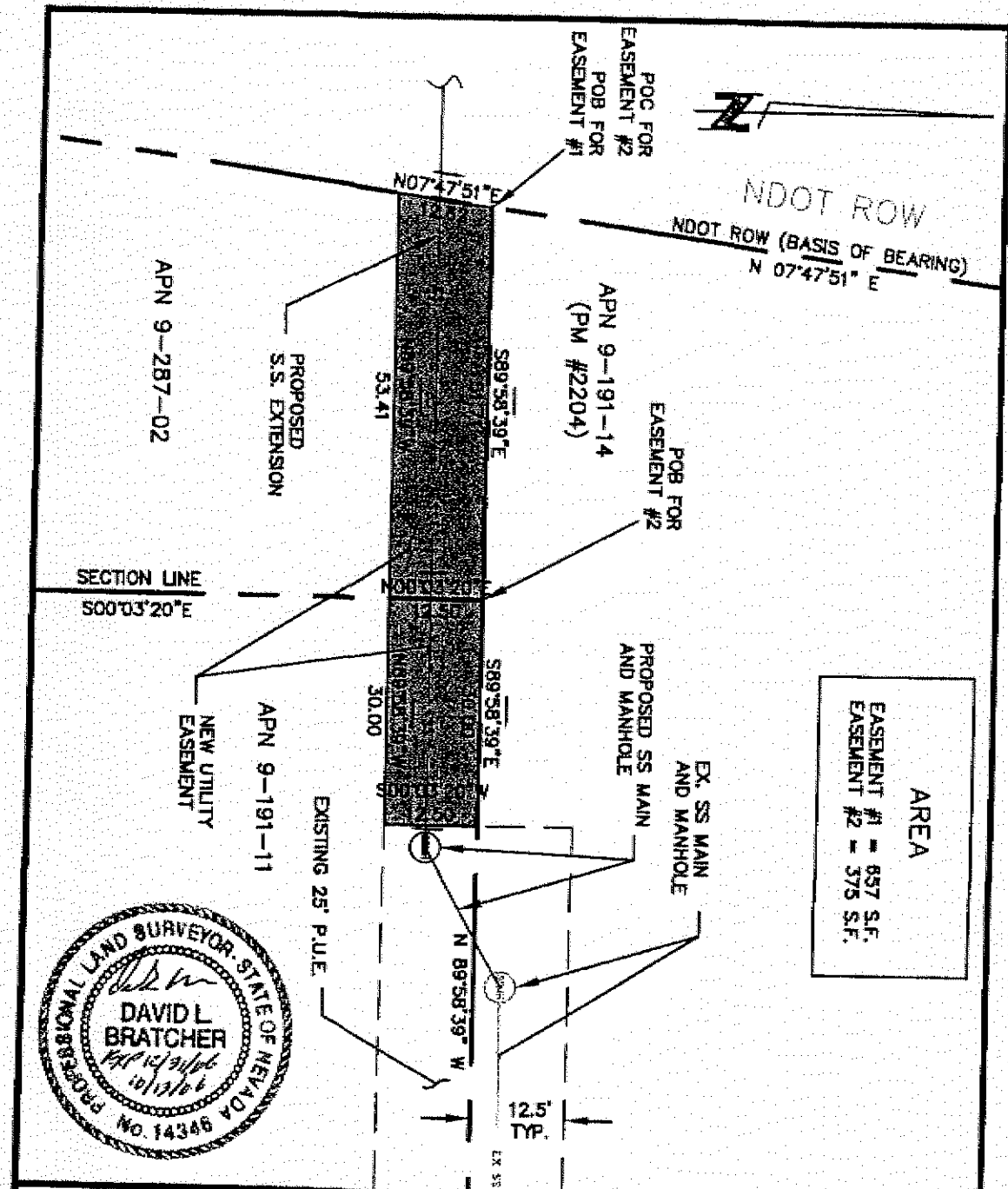
**THENCE** N 07° 47' 51" E; 12.62 feet along said east Right-of-Way, to the **TRUE POINT OF BEGINNING.**

**CONTAINING** 657 square feet, more or less.

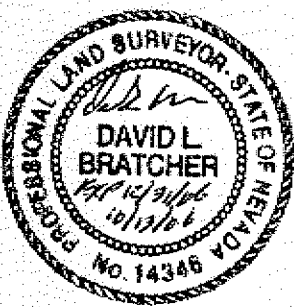
Prepared by:

David L. Bratcher  
Lumos & Associates  
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Carson City, NV 89706





AREA  
 EASEMENT #1 = 637 S.F.  
 EASEMENT #2 = 375 S.F.



**LUMOS**  
 & ASSOCIATES  
 800 E. COLLEGE PARKWAY  
 CARSON CITY, NEVADA 89708  
 PH. (775) 885-7077 FAX (775) 885-7114

CARSON CITY  
 EXHIBIT B1  
**SANITARY SEWER EASEMENT**  
 CARSON CITY NEVADA

Date: 7/14/06  
 Scale: 1"=20'  
 Job No: 5745.001  
 FIGURE 1

**AFFIDAVIT OF LAWRENCE A. WERNER, P.E., P.L.S.  
REGARDING PROPERTY VALUE**

State of Nevada            )  
  ) ss.  
County of Carson City    )

I, Lawrence A. Werner, being first duly sworn and under the penalty of perjury, state as follows:

1. I am the City Engineer for Carson City, Nevada and have been employed in that position for 7 years. As a part of my duties, I must acquire property for Carson City in order to accomplish the construction of public works as required by law.

2. As the City Engineer, I have overseen the acquisition of many different properties and have negotiated the sale price for properties. I have also become familiar with the value of properties based on appraisals by licensed appraisers and based on the assessed value of properties by the county assessor. I have made offers to buy properties based on either or both of these methods. I have also appraised the value of properties to be acquired by Carson City when the property sought is a relatively small area for an easement or a very small piece of property and the value is believed to be less than \$20,000 and have purchased property based on those values.

3. Currently, Carson City is in need of acquiring an easement for a sewer line on the following property: Carson City Assessors Parcel Number 009-191-11 which is approximately 35,003 square feet in size and Carson City Assessors Parcel Number 009-287-02 which is approximately 7,449 square feet in size. The size of the easement is approximately 375 square feet on parcel APN 009-191-11 and approximately 657 square feet in size on parcel APN 009-287-02. The purpose of the easement is to extend the community sanitary sewer system from the east side of Carson Street to the west side of Carson Street..

4. Based on my experience, I have appraised the market value of the sewer easement on the property based on accepted appraisal procedures. Specifically, I performed an analysis of recent sales of similar property and similar property rights in this locality and I have reviewed the assessed value of the property. I have also determined whether or not any damages will accrue to the owner as a result of the acquisition of the easement. My efforts were made in order to determine a value of the property pursuant to NRS 37.100(4) which allows a court to approve occupancy of the property right by a plaintiff pending final judgment. Based on the above, I have appraised the property to be acquired for Carson City at \$10,960.00 and it is my determination that there are no damages which will accrue as a result of the acquisition.

5. My review of the Carson City Assessor records shows that the owners of record are: Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur of the parcel identified as APN 009-191-11, and Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur of the parcel identified as APN 009-287-02. However, there may be others unknown to the City that have liens or other interest in the parcels identified herein.



Lawrence A. Werner, P.E., P.L.S.  
Carson City Engineer

State of Nevada  
City of Carson

Subscribed and sworn to before me  
this 11<sup>th</sup> day of April, 2007.

Lena E. Reseck  
Notary Public

