



CITY OF ELKO
CITY MANAGER
1751 COLLEGE AVENUE
ELKO, NEVADA 89801
(775) 777-7110/FAX (775) 777-7119

The Elko City Council will meet in regular session on Tuesday, October 13, 2020

At the Elko Convention Center, Turquoise Room, 700 Moren Way, Elko, Nevada, at 4:00 P.M., P.D.T.

Attached with this notice is the agenda for said meeting of the Council.

In accordance with NRS 241.020, the public notice and agenda was posted on the City of Elko

Website, <http://www.elkocitynv.gov> the State of Nevada's Public Notice Website,

<https://notice.nv.gov>, and in the following locations:

ELKO CITY HALL

1751 College Avenue, Elko, Nevada 89801

Date & Time Posted: Thursday, October 8, 2020 at 8:30 A.M.

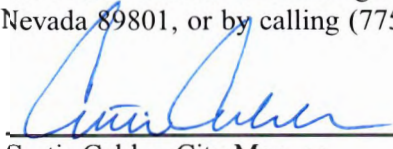
Posted by: Kim Wilkinson Administrative Assistant 

The public may contact Curtis Calder by phone at (775)777-7110 or email at ccalder@elkocitynv.gov to request supporting material for the meeting described herein. The agenda and supporting material is available at Elko City Hall, 1751 College Avenue, Elko, NV or on the City website at <http://www.elkocity.com>

Dated this 8th day of October, 2020

NOTICE TO PERSONS WITH DISABILITIES

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.


Curtis Calder, City Manager
Elko, Nevada

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.D.T., TUESDAY, OCTOBER 13, 2020
TURQUOISE ROOM, ELKO CONVENTION CENTER
LOCATED AT 700 MOREN WAY, ELKO NEVADA

CALL TO ORDER

The Agenda for this meeting of the City of Elko has been posted for this date and time in accordance with State of Nevada Emergency Directive 006.

ROLL CALL

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES: September 22, 2020 Regular Session

I. PRESENTATIONS

- A. Presentation of a “Years of Service” Plaque to former Planning Commissioner, Evi Buell, and matters related thereto. **INFORMATION ONLY–NON ACTION ITEM**
- B. Fire Department Badge Pinning
 - 1.) Tyler Huff, Fire Fighter

II. CONSENT AGENDA

- A. Review, consideration, and possible reappointment of Dennis Strickland as Chairperson for the Storm Water Advisory Committee, and matters related thereto. **FOR POSSIBLE ACTION**

Per the Storm Water Advisory Committee Bylaws, the chairperson serves a two-year term. Dennis Strickland has served as Chairperson since September 11, 2018 and is now due for reappointment. Article III, Section 1 of the committee bylaws states that the City Council shall appoint the Chairperson. MR
- B. Review, consideration, and possible acceptance of a “Letter of Resignation” from Arts and Culture Advisory Board Member, Bailey Billington-Benson, and direct

Staff to advertise the vacant seat, and matters related thereto. **FOR POSSIBLE ACTION**

Bailey Billington-Benson has submitted a “Letter of Resignation” from the Arts and Culture Advisory Board. A copy of the letter has been placed your packet. CC

- C. Review, consideration, and possible appointment of Kelly Wooldridge, City Clerk as the City of Elko Title VI Coordinator, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko is required to have a Title VI program to be in compliance with State and Federal grants. In early May the City was notified by NDOT that they will be completing a Title VI program compliance review. NDOT has also hired consultants to assist the City in completing the Title VI program plan. The program requires a City-wide Title VI Coordinator. KW

III. PERSONNEL

- A. Employee Introductions:

- 1.) Spencer Sutherland, Landfill Equipment Operator, Public Works, Landfill
- 2.) Caleb McHale, Parks Maintenance Technician I, Parks and Recreation
- 3.) Aaron Brensel, Equipment Operator I, Public Works, Street Department
- 4.) Carlos Gonzalez, Equipment Operator I, Public Works, Street Department
- 5.) Nicholas Kyriss, Equipment Operator I, Public Works, Street Department
- 6.) Kirsten Kowing, Animal Shelter Worker II, Animal Shelter

IV. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review and possible approval of Print n’ Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- C. Review and possible approval of Ruby Mountain Lock & Safe Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- D. Review and possible approval of Great Basin Engineering Contractors Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- E. Review, consideration, and possible final acceptance of the Public Works Department Preventive Maintenance Project 2020 to apply Micro Slurry Seal to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

At the May 26, 2020 meeting, the City Council awarded the bid for the Preventive Maintenance Project 2020 to Sierra Nevada Construction in the amount of

\$514,007.00. The contract came in under budget due to field quantity adjustments. Sierra Nevada Construction has satisfactorily completed the work. DS

- F. Review, consideration, and possible award of the bid for the Swimming Pool Re-Plastering Project, and matters related thereto. **FOR POSSIBLE ACTION**

Bids for the Swimming Pool Re-Plastering Project were opened on Wednesday October 7, 2020. A Bid tabulation sheet has been included in the packet for Council review. JW

V. UNFINISHED BUSINESS

- A. Review, consideration, and possible approval of an Interlocal Agreement for Communication Facility Exchange between the between the City of Elko and CC Communications for a communication facility exchange, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko approved a non-exclusive franchise agreement with the CC Communications on February 11, 2020. The non-exclusive franchise agreement does not provide for the use of City-owned fiber. On June 23, 2020, the City of Elko approved the development of an agreement for future consideration by the Council. The Council action required a condition that CC Communication construct the entire communication infrastructure proposed in the agreement prior to CC Communications utilizing City owned fiber. The proposed agreement reflects that condition. SAW

VI. NEW BUSINESS

- A. Review, consideration, and possible approval of the First Amendment to the Non-Exclusive Franchise Agreement between the City of Elko and Citizens Telecommunication Company of Nevada d/b/a Frontier Communications of Nevada, amending Section 1 of the agreement, granting a Revocable License to pull communications cable in underground conduit owned by the City of Elko located within City Rights-of-Way, and amending Section 5 of the agreement, allowing for a reduction in franchise fees by resolution of the City Council, and matters related thereto. **FOR POSSIBLE ACTION**

Council has recently approved Non-exclusive Franchise Agreements including a provision granting a Revocable Permit for Occupancy of City owned conduit. Additionally, Council passed Resolution No. 4-20 on February 11, 2020, waiving franchise fees for telecommunications carriers beginning July 1, 2020 for a period of five (5) years. Commencing on June 29, 2025, and continuing thereafter, the telecommunication carrier shall pay the Franchise Fee as stipulated in the agreement. The proposed amendment addresses the issues referenced above. SAW

- B. Review, consideration, and possible approval of a corrected lease between the City of Elko and ESM2, LLC, for the lease of approximately 8.69 acres of City owned

property located generally north of West Idaho and west of the Airport, and matters related thereto. **FOR POSSIBLE ACTION**

Council adopted Resolution No. 15-20, accepting the appraised lease value at its meeting on July 28, 2020, and conducted a public auction for the referenced property on August 25, 2020. At the July 28, 2020, meeting there was considerable discussion concerning the lack of access to the property and public comment requesting a draft lease agreement to be provided. There was comment by City Officials that the lease must address the access issue. To ensure that all potential interested parties would be bidding on equal terms, a draft lease agreement was presented in the Council agenda packet for the public auction process. That draft lease agreement is what the successful bidder bid upon. The draft lease agreement contained some typographical errors and did not contain two of the referenced Exhibits. The typographical errors have been corrected and the Exhibits have been included in the lease agreement. The successful bidder has requested other significant and substantive revisions to the agreement that Staff, based on legal advice, believes would violate NRS 268.062, because substantive revisions would constitute post-bid negotiation prohibited by the law of competitive bidding. For that reason, the presented agreement does not include the revisions requested by the successful bidder. SAW

- C. Review, consideration, and possible termination of the Memorandum of Understanding (MOU) between the City of Elko, and Friends in Service Helping (F.I.S.H.), a Nevada Non-Profit Corporation for the implementation of Elko Policy Procedure, and Action Plan for the Extreme Cold Weather Shelter, and matters related thereto. **FOR POSSIBLE ACTION**

Due to the COVID-19 pandemic, the F.I.S.H. Agency is not equipped to safely operate nor staff the shelter. F.I.S.H. Chairman Robert Leonhardt has submitted a letter and a copy has been placed in the packet for your review. CC

- D. Review, consideration, and possible approval of a Performance/Maintenance Agreement for subdivision improvements associated with the Aspen Heights subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Elko City Code 3-3-21 requires the subdivider to have executed and filed an agreement between the subdivider and the City for the required subdivision improvements, including stipulations on the timeframe for when those improvements are to be completed, and to post a performance guarantee in accordance with Elko City Code 3-3-22.

Final Map 3-20 was approved by the City Council on July 14, 2020. At that time, a Performance and Maintenance Agreement was entered into by the original property owner/developer. Since then, the property has been sold to a new developer (Braemar Construction). Due to this change in ownership, a new Performance and Maintenance Agreement is needed. MR

- E. Review, consideration, and possible action to conditionally approve Parcel Map No. 8-20, filed by Gallagher Family Trust, for the merger of two parcels into one, approximately 4.896 acres, located generally on the north side of 30th Street between Idaho Street and Norco Lane with offer of dedication for Norco Lane Right-of-Way, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered this item at its October 6, 2020 meeting, and took action to forward a recommendation of conditional approval Parcel Map 8-20. The Parcel Map contains an offer of dedication for Right-of-Way, and it is for this reason that the map was referred to the Planning Commission, and subsequently to Council. CL

- F. Review, consideration, and possible action to fill a vacancy on the Elko City Planning Commission, and matters related thereto. **FOR POSSIBLE ACTION**

On September 8, 2020, Council accepted a letter of resignation from Planning Commission member Evi Buell. Staff conducted the standard recruitment process and has received two (2) Letters of Interest to serve on the Planning Commission, copies have been included in the Council packet. The new member will be appointed to fill the remainder of the four-year term, which will expire at the end of July 2023. CL

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible action to accept a petition for the vacation of a 25' wide public utility easement bisecting APN 001-610-112, consisting of an area approximately 9,944 sq. ft., filed by Grace Baptist Church and processed as Vacation No. 4-20, and matters related thereto. **FOR POSSIBLE ACTION**

The applicant is in the process of selling the parcel to a developer who would prefer to have the public easement run along the property line. The applicant will be granting a new public utility easement to the City of Elko in lieu of this easement. CL

- B. Review, consideration, and possible action to accept a petition for the vacation of a portion of Silver Street Right-of-Way, consisting of an area approximately 1,720 sq. ft., filed by Ygoa Ltd. and processed as Vacation No. 3-20, and matters related thereto. **FOR POSSIBLE ACTION**

The applicant would like to vacate this portion of Silver Street to create an outdoor dining area. CL

- C. Review, consideration, and possible approval of a request by Jeff and Jenny Peterson of 2727 Morning Breeze Drive to pay the costs on a water leak at his residence, and matters related thereto. **FOR POSSIBLE ACTION**

On July 17, 2020 and again on July 22, 2020 the City of Elko was contacted regarding a water leak at 2727 Morning Breeze Drive. It was discovered there were

two leaks on the City line. The Petersons are requesting payment of a \$1000 invoice from Fielder Sewer and Drain. The claim was denied by Alternative service Concepts, the City's third-part administrator for insurance claims. The agenda packet contains specific information regarding the leak. KW

- D. Review, consideration, and possible action concerning a request for the City Council to direct the Building Department to issue an order of non-compliance to the owner of the property and partially demolished building located at 397 5th Street, and matters related thereto. **FOR POSSIBLE ACTION**

The City received a petition from the owner of the property and structure located at 369 5th Street and abutting the partially demolished structure located 397 5th Street. The request is based on the petitioner intending to complete roof repairs on the structure located at 369 5th Street. The petitioner states that they have attempted to utilize the wall located on 397 5th Street for completion a roof repair on the structure located at 369 5th Street. The petitioner did not provide documentation that the owner of 397 5th Street has granted permission for the use of the wall. The petitioner states that a bricklayer was consulted, and a determination was made the wall is structurally unsound and demolition of the wall is required. A structural analysis completed by a properly licensed professional would be required for a final determination.

The Building Department issued a demolition permit 2018-00000452 on May 21, 2018. That permit is still open pending a final inspection. A final inspection cannot be performed until the owner of the property provides the City a structural analysis showing the portion of the structure left standing is structurally sound. SAW

VIII. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible action to conditionally approve Tentative Map No. 6-20, filed by Legion Construction and Development, LLC, for the development of a subdivision entitled Jarbidge Estates, involving the proposed division of approximately 2.16 acres of property into 18 lots for residential development and 1 common lot within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located on the west side of N 5th Street at the intersection of Rolling Hills Drive (APN 001-610-093). The Planning Commission considered this item on September 1, 2020, and took action to forward a recommendation to conditionally approve Tentative Map 6-20. MR

IX. REPORTS

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- D. Utilities Director

- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director – **Cares Act Report**
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

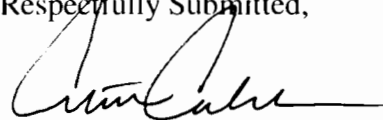
COMMENTS BY THE GENERAL PUBLIC

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NOTE: The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

ADJOURNMENT

Respectfully Submitted,



Curtis Calder
City Manager

City of Elko)
County of Elko)
State of Nevada)

SS September 22, 2020

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, September 22, 2020. Due to the COVID-19 pandemic the meeting was held via GoTo Meeting.

CALL TO ORDER

This meeting was called to order by Mayor Reece Keener. He stated the agenda for this meeting has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can participate by phone, tablet, laptop, or computer by registering with the Goto Meeting link provided in the agenda, as well as the public call in number provided in the agenda. Questions can be sent to cityclerk@elkocitynv.gov.

ROLL CALL

Mayor Present: Reece Keener

Council Present: Councilwoman Mandy Simons
 Councilman Robert Schmidtlein
 Councilman Chip Stone
 Councilman Bill Hance

City Staff Present: Curtis Calder, City Manager
 Scott Wilkinson, Assistant City Manager
 Kelly Wooldridge, City Clerk
 Candi Quilici, Accounting Manager
 Jan Baum, Financial Services Director
 Dale Johnson, Utilities Director
 Clark Phillips, Water & Sewer Superintendent
 Bob Thibault, Civil Engineer
 James Wiley, Parks and Recreation Director
 Cathy Laughlin, City Planner
 Jim Foster, Airport Manager
 Matt Griego, Fire Chief
 Mike Palhegyi, Police Lieutenant
 Shelby Archuleta, Planning Technician

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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and identified as an item for possible action. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: cityclerk@elkocitynv.gov. **ACTION WILL NOT BE TAKEN**

There were no public comments.

APPROVAL OF MINUTES: **September 8, 2020 Regular Session**
 August 25, 2020 Special Session

The minutes were approved by general consent.

I. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Mandy Simons, seconded by Councilman Stone, to approve the general warrants.**

The motion passed unanimously. (5-0)

- B. Review and possible approval of Print n' Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Mandy Simons and seconded by Councilman Schmidlein, to approve Print 'N Copy warrants.**

The motion passed. (4-0 Mayor Keener abstained.)

- C. Consideration and possible approval of an Interlocal Agreement for the Grant of Funds Pursuant to the Coronavirus Aid, Relief and Economic Security Act between the City of Elko and the County of Elko in the amount of \$1,095,919.16, and matters related thereto. **FOR POSSIBLE ACTION**

Council previously authorized Staff to accept the CARES Act funding, determine eligible expense and purchases to be reimbursed or expended from CARES Funding, and to consider the possible allocation of the CARES Funding not utilized by the City of Elko to Elko County for the business Grant Cares Grant Program subject to an Interlocal Agreement with Elko County. An Interlocal Agreement was prepared by David Stanton, City Attorney. The County is requesting changes as outlined in the attached red lined agreement, Page 4, Paragraph 3. Specifically, the County is requesting that the original language of: "as well as any subsequent emergency directives or executive orders related to the COVID-19 health crisis capacity" be changed to "as of September 3, 2020 related to the COVID-19 health crisis capacity." This is a substantive change to the proposed Interlocal Agreement

which does not align with the original Coronavirus Relief Fund Eligibility Certification approved by the City Council and certified by the City Manager. JB

Jan Baum, Financial Services Director, explained that when the City submitted the CARES funding plan to the State it included \$1,000,095.00 to Elko County for the business grant program. We then submitted an inter- local agreement to Elko County. The County does not want to include the language that states “the County will adhere to enforce emergency directives by the Governor.” This language was included in the original agreement submitted to the State by the City and the County. The City proposed changes to this item to the State, who declined changing the agreement.

Councilwoman Simons stated they accepted the money from the State with that language but they want it different from the City.

Ms. Baum stated yes that is accurate. If something happens and the County doesn’t adhere to or enforce future directives, it would be the responsibility of the City to pay the money back to the State.

Mayor Keener asked City Manager Curtis Calder to weigh in on the issue.

Mr. Calder stated we should retain what our legal counsel wrote in the agreement and not make the changes. If the County does not agree then we would not transfer the money to them.

Mayor Keener clarified that if something went wrong with the County then the City would have to repay the money.

Mr. Calder stated yes that is correct.

Ms. Baum stated the County has started the business grant program and there have not been many requests yet.

Mayor Keener asked about the grant application and wondered if it was complicated to complete.

Ms. Baum felt the wording was more confusing than the actual process of completing the paperwork. Businesses must show their financial situation is different than in 2019.

Councilman Stone stated he went through the process today and stated it was fairly simple to complete. The purpose of the City agreeing to these funds was so it could trickle down to the small business owners, but does not want to put the City at risk.

Councilman Schmidlein does not understand the double standard and wants the City to follow the original language proposed by the City Attorney.

Mayor Keener called for public comment. There were no comments.

**** A motion was made by Councilwoman Simons, seconded by Councilman Robert Schmittlein to return the document to the County unchanged and give them the option to move forward as written. If this is not acceptable the City will keep the funding.**

The motion passed unanimously. (5-0)

- D. Review, consideration, and possible rejection of all bids for the Water Tank Interior Coating Project-2020, and matters related thereto. **FOR POSSIBLE ACTION**

Bids were opened September 11, 2020. Only one complete bid was submitted for the project, with four bids being incomplete. All of the bids were above the \$500,000.00 budgeted amount for the project. A Bid Tally Sheet has been provided for review. DJ

Dale Johnson, Utilities Director, stated there was only bid considered compliant, however it was well over the budgeted amount. He stated we could reject the bids or just go with doing one tank right now.

Mayor Keener asked if there was a pre-bid meeting and if the potential bidders were cautioned about everything that needs to be included in the bids.

Mr. Johnson stated yes.

Mayor Keener then asked about adjusting the specifications of the project.

Mr. Johnson stated this was not really a job that had many adjustments.

Mayor Keener asked when the last time these were done.

Mr. Johnson stated on one tank this is the first time it's been recoated and on the other it is the second time.

Councilman Schmittlein does not understand why all of the bids were so high unless painting companies are just that busy. He thinks all bids should be rejected.

Mayor Keener asked City Manager Calder what he thought.

Mr. Calder feels it is not an emergency and that all bids should be rejected.

Mayor Keener called for public comment. There were no comments.

Councilman Stone asked if the bidders will be notified what made the bid non-compliant.

Kelly Wooldridge, City Clerk, stated they would be contacted and that the bid tabulation will be posted on the website.

**** A motion was made by Councilman Robert Schmidlein and seconded by Councilman Chip Stone to reject all of the bids and re-bid the project next year when additional funds are available.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible ratification of Staff's approval for Change Orders related to unforeseen conditions with the Re-roofing Project at the City of Elko Swimming Pool, and matters related thereto. **FOR POSSIBLE ACTION**

Due to various un-known conditions related to the City of Elko Swimming Pool re-roof and ceiling demolition project it was necessary for Staff to approve Change Orders currently totaling \$50,719.28. Change Orders pertain to asbestos mitigation measures, placement of additional roof decking, and the demolition and reconstruction of the rotted wood curb for the roof mounted air handler unit. JW

James Wiley, Recreation Director, stated copies of the change orders are in the packet and described the three change orders. He is aware of one additional change order that will be brought back for ratification at a future meeting. It is around \$21,000 to replace rotting rafters on the roof area. The tops of the rafters could not been seen until the roof came down.

Councilman Schmidlein asked if Lostra Engineering is the project engineer.

Mr. Wiley stated yes and that we could not see what was really going on until the roof was demolished.

Mayor Keener called for public comment. There were no comments.

**** A motion was made by Councilman Schmidlein and seconded by Councilwoman Mandy Simons to ratify the change orders made to the pool repair roof project totaling \$50,719.28.**

The motion passed unanimously. (5-0)

II. NEW BUSINESS

- A. Review, consideration, and possible action to conditionally approve Parcel Map No. 7-20, filed by City of Elko, for the division of approximately 49.98 acres into three parcels, located generally along the Humboldt River from approximately 9th Street to approximately 1,200 feet west of Errecart Blvd., and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko is the applicant of the parcel map, therefore must have City Council approval. The parcel map will create the 2,800 sq. ft. parcel in which City Council approved to sell to Anthem Broadband of Nevada. CL

Cathy Laughlin, City Planner, stated Mr. Thibault completed the parcel map so we can continue with the sale to Anthem Broadband. There is a need for public access and a drainage easement so there is access to the Harp Trail and utility access.

Mayor Keener called for public comment. There were no comments.

**** A motion was made by Councilwoman Mandy Simons, and seconded by Councilman Chip Stone to conditionally approve parcel map 7-20 with the conditions stated in the staff report dated September 14, 2020.**

The motion passed unanimously. (5-0)

- B. Review, discussion, and possible approval for payment to the Boys and Girls Club of Elko for COVID-19 related expenses (for example PPE and COVID-19 testing) incurred as a result of the COVID-19 pandemic, and matters related thereto. **FOR POSSIBLE ACTION**

The City received Cares Relief Funds from the State of Nevada in August, 2020. As outlined in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada a sub-grant to reimburse the Boys and Girls Club of Elko for direct costs associated with COVID-19 which include, but are not limited to, COVID-19 testing and PPE are eligible expenditures.

The City would like to sub-grant Cares Relief Funds to the Boys and Girls Club of Elko for direct COVID-19 related expenses. The payment of these funds would be subject to the Boys and Girls Club of Elko providing a specific list of COVID-19 related expenses along with invoices as well as the Boys and Girls Club of Elko agreeing to the terms specified in the Coronavirus Relief Fund Terms and Conditions for Local Governments from the State of Nevada; including adhering to Nevada Governor's Directives.

The current list of expenses provided by the Boys and Girls Club of Elko is \$16,253.21. JB

Jan Baum, Financial Director explained the request and that the Boys and Girls Club is providing a great service at a time when schools have closed and they have endured a great deal of expenses related to COVID-19 prevention and mitigation. The COVID-19 task force agreed these expenditures would be covered.

Mayor Keener stated the Boys and Girls Club is essential right now and that their three big fundraisers have been cancelled this year so he is in support of this request. He called for public comment without a response.

**** A motion was made by Councilman Chip Stone and seconded by Councilman Robert Schmidlein to request an updated expenditure list and invoices of COVID-19 related expenses for the Boys and Girls Club of Elko; and that the Boys and Girls Club of Elko sign an agreement to adhere to the terms and conditions set forth in the Nevada Governor's Directive.**

The motion passed unanimously. (5-0)

- C. Review, discussion, and possible direction to Staff regarding CARES Act funding, including the possible initiation of the closeout process, and matters related thereto. **FOR POSSIBLE ACTION**

Based upon the outcome of related agenda items, City Staff may recommend that ongoing compliance with the terms and conditions imposed by the State of Nevada is no longer feasible and/or Cares Act funding is no longer necessary. CC

Curtis Calder, City Manager, stated that based on the motion made on the item regarding the CARES funding relief act agreement with the County we should wait to make a decision on this item. If the County will not sign the inter-local agreement without the changes they requested, the City could close out the CARES grant and return the unspent monies to the State. He stated this item should be no action or tabled for now. This item should be on every agenda until it is resolved.

Councilman Stone asked if there is an end date to when we are done with the CARES money.

Ms. Baum, Financial Services Director, stated December 30, 2020 the funds need to be either committed or committed to be expended, all reporting needs to be completed by the end of March and all unused funds need to be returned to the State by end of March 2021.

Councilman Stone asked if we are still tied into the contract agreements until the end of March.

Ms. Baum stated the contract has an end date of December 30, 2020 but she will find out.

Mr. Calder stated that if we close it out before December 30, 2020 we would be obligated to the conditions until the grant closed out.

Mayor Keener called for public comments. There were no public comments.

**** A motion was made by Councilwoman Mandy Simons and seconded by Councilman Chip Stone to table this item.**

The motion passed unanimously. (5-0)

III. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible approval of Ordinance No. 856, an Emergency Ordinance Reducing the Amount and Deferring Payment of Brothel License Fees, and matters related thereto. **FOR POSSIBLE ACTION**

On June 23, 2020, City Council approved Ordinance No. 855, which deferred payment for Brothel License Fees until September 30, 2020 due to the COVID-19 pandemic. This ordinance extends the date to within thirty (30) days of the date the licensee is permitted to reopen by order of the Office of the Governor or upon termination of this Ordinance, whichever occurs first. KW

Kelly Wooldridge, City Clerk explained this is mainly a housekeeping item. We thought the brothels would be open by now and they are not open. This ordinance extends the time the brothels have to pay the brothel fees.

Mayor Keener called for public comment.

Louis Goldberg, of Mona's Ranch and Inez's D & D thanked the Council.

**** A motion was made by Councilman Robert Schmidlein and seconded by Councilman Chip Stone to approve ordinance 856.**

The motion passed unanimously. (5-0)

IV. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration and possible approval of a request from Attorney David Lockie, representing Mr. Louis Goldberg. Mr. Goldberg is requesting to modify conditions on the business licenses for Mona's Ranch and Inez's D & D, and matters related thereto. **FOR POSSIBLE ACTION**

On August 14, 2018, City Council approved the Brothel License Application for Louis Goldberg, with the restriction that he is on site twenty days a month and this is subject to audit from the Police Department. Mr. Goldberg is requesting to modify this condition to 10 days per month. KW

Kelly Wooldridge, City Clerk, stated this business license is conditioned. Mr. Goldberg and Mr. Lockie are available to explain the request.

Mr. Lockie explained how we got here. He stated on August 14, 2018 the City Council approved the business license and added this condition, which is not a requirement by City Code but within discretion of the City Council. Two years have elapsed with no problems at the businesses. There are also two additional owner Licensee's, Ana Brown and Peter Tang. The prior problem was a single individual and a single incident. This person is now in prison and the case is concluded. Therefore, it appears reasonable to reduce the on-sight requirement to ten days and the other owners are allowed to be included in the on- sight.

Louis Goldberg stated we have three owners and two of them are on sight 30 days a month. There is an owner in town, on sight every day.

Mayor Keener stated he spoke with EPD who had no concerns with it.

Councilman Schmidlein stated two years ago when we put this condition on the license it was different situation and he is in agreement with the change.

Councilwoman Simons stated her primary concern was that an owner is on premises everyday it is open.

Mayor Keener called for public comment. There was no comment.

**** A motion was made by Councilman Stone, seconded by Councilman Hance, to modify the agreement to a 10 day per month on premises for Mr. Louis Goldberg at Mona's Ranch and Inez D & D.**

Mayor Keener called for discussion.

Mr. Bert Gurr asked if the intent of the motion was to have any owner on sight for ten days or just Louis Goldberg.

Mayor Keener stated he thought the request was to reduce Mr. Goldberg from twenty days to ten.

Mr. Gurr stated Louis Goldberg is under lock down in San Francisco due to COVID-19 and should not be traveling.

Mr. Goldberg stated in the agenda item, it was requested that it be just a licensee.

Mr. Lockie stated the request was for an owner/licensee be on the premises.

Councilwoman Simons asked if they want an owner to be ten days only because we want an owner every day.

Mr. Lockie stated they are asking for two different things. One was to reduce the owner being on premises for ten days.

Councilman Stone clarified that the desire is for an owner to be on premises only ten days.

Mayor Keener asked if we can act on this based on how the agenda item is worded.

Curtis Calder, City Manager, stated the agenda item is worded broadly, stating it is a request to modify conditions on the business license so there is flexibility on the agenda item.

Mr. Goldberg stated they are more than happy to have an owner there daily.

Councilman Stone stated he understood that travel was an issue right now for Mr. Goldberg.

Mr. Goldberg stated correct but he would like it to say just licensee.

Councilman Schmidtlein clarified asked the difference between licensee and owners.

Mr. Goldberg stated they are all owners and all licensees.

Mayor Keener proposed requiring a licensee is on the premises each day. Mayor Keener would like to look at changing the code in the future to make this a requirement.

The first motion was struck from the records.

**** Councilman Stone motioned and Councilman Robert Schmidtlein seconded to modify the business licenses for Mona's Ranch and Inez's D & D to the requirement a licensee is on premises every day.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible approval of a request by Mr. and Mrs. Barris for reimbursement for damages resulting from sewer leak at their residence, and matters related thereto. **FOR POSSIBLE ACTION**

On July 30, 2020 Kimberly and James Barris, 3505 Forest Court, contacted the on-call regarding a water leak. The on-call went out and suggested the homeowner turn the water off. The house flooded again the next morning and the Water Department Supervisor responded who determined it was actually a sewer leak on the City side of the pipes not a water leak. The City of Elko insurance (Alternative Services Concepts) denied the claim. The City Sewer Policy allows for reasonable cost of the initial clean up and does not include removal of property, replacement of carpeting, tile or furnishings, new construction, disposal or any other costs and/or damages. The Barris's are requesting payment for lost items and other damage.
KW

Kelly Wooldridge, City Clerk stated Mr. Johnson and Mr. Phillips are on to address the sewer/water issues. The insurance company normally denies this type of claim based on NRS that the City has immunity.

Mayor Keener asked if Ms. Wooldridge had called Dain Uriarte regarding this denial.

Ms. Wooldridge spoke to the insurance company and they deny it based on the NRS that is clear the City has immunity.

Mayor Keener asked Mr. Phillips to provide information regarding what happened.

Clark Phillips, Water/Sewer Superintendent, stated the department failed to meet the mission statement of the City and the department. The on-call showed up and the water pit was already off. There was water leaking in the house still and the on-call thought it was residual water so he left the pit off. He decided to leave it overnight and failed to notice it was actually a sewer leak and plug in the main. The Barris's had sewer flooding that got worse throughout the night and the next day. The leak got so bad that it was out into the street. When Mr. Phillips arrived on scene he found there was a sewer blockage on Forrest Lane, which is a half of a block away and the overflow went to the Barris residence. This was a very unfortunate situation and the on-call did not do enough on the front end to prevent this from happening.

Mayor Keener asked about previous cases in past years on Ruby View Drive that there was a home with a number of back up events and if Mr. Calder can remember the specifics.

City Manager, Curtis Calder, recalled there were chronic backups on Ruby View Dr. and it was eventually determined it was grease coming from the Indian Colony clogging the pipes. The City decided that this line would be cleaned on a regular basis and put a device in one of the manholes that will alarm if it starts to back up. Mr. Calder stated each back up can be a different situation. In cases in which the City has caused the backup we have replaced above cleanup costs. There is a settlement agreement the property owner will sign and it will be final.

Mr. Phillips added that there have been extensive conversation with the water shop staff and they have reviewed every SOP and made some changes, the biggest being that anytime there is an issue like this the on-call needs to contact Mr. Phillips until the problem is resolved.

Mayor Keener called on Mrs. Kimberley Barris. He stated he feels awful they had this situation and asked if they have contemplated a settlement amount.

Mrs. Barris stated they don't want to make money, just recoup what was lost. Their homeowners insurance denied the claim stating the City was at fault so they have had a total loss. They would like to just recoup some of the loss.

Mayor Keener noted the \$2700 bill from Callaway Carpet Cleaning.

Mrs. Barris stated their grand total was \$17,500 in loss. Everything soaked in black water overnight and had to be thrown away.

Councilwoman Simons noted she sees about \$9000 in the request.

Mrs. Barris stated there were invoices for flooring and walls. She stated the flooring was a little excessive at \$8800.

Councilman Stone asked if the work has been completed.

Mrs. Barris stated it has not. Mr. Callaway stated they needed to wait at least six weeks to ensure everything is dry.

Mayor Keener asked if paying for more than the cleaning would set a precedent.

Mr. Calder stated no, this has been done previously after factoring in age of the flooring and paint. He feels the flooring price is too high.

Councilman Stone asked Mrs. Barris if she had a figure in mind and she stated no they are hoping for something fair. She stated they have priced flooring for much less as of now.

Councilman Schmittlein asked what kind of flooring they had and when it was installed.

Mrs. Barris stated carpet was put in around 2004 but she wasn't sure.

Mayor Keener stated the call was not handled appropriately and he is thinking an amount of \$10,000 to include the cost of the carpet cleaning.

Councilman Schmittlein agreed with this. Mrs. Barris stated she would be fine with \$10,000 excluding the cost of the carpet cleaning.

Mayor Keener asked if Callaway Carpet has been reimbursed yet.

Ms. Wooldridge stated no and asked that the motion includes that the Barris's sign the waiver developed by the City attorney.

**** Councilman Schmittlein made a motion, seconded by Councilman Chip Stone, to authorize reimbursement for the cleaning bill of \$2702 to Callaway Carpet and a**

reimbursement for damage to personal property of \$10,000 to Mr. and Mrs. Barris once they sign the waiver.

The motion passed unanimously. (4-0 Councilwoman Simons lost connection)

- C. Review, consideration, and possible action to accept a petition requesting the lease of City owned property pursuant to NRS 268.062, approximately 1.126 acres, identified as Lease Area N1 located at the Elko Regional Airport, at public auction, and authorize Staff to obtain the required appraisal, and matters related thereto.
FOR POSSIBLE ACTION

Classic Air Care dba MedX AirOne has petitioned the City of Elko to lease airport owned property identified as Lease Area N1 located on the Elko Regional Airport. If Council accepts the petition, an appraisal will be obtained and Council will hold a meeting on the fair market value of the property and adopt a resolution declaring its intention to lease the property at public auction. JF

Jim Foster, Airport Director, stated we would like to get this lease created so MedX can build a new hanger.

Mayor Keener called for public comment. No comments were made.

**** A motion was made by Councilman Chip Stone, seconded by Councilman Bill Hance, to lease Area N1 pursuant to NRS 268.062 at public auction, authorize Staff to obtain the required appraisal, direct Staff to consult with the FAA on any required approvals for leasing the property.**

The motion passed unanimously. (5-0)

V. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible action to adopt Resolution No. 23-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from C (General Commercial) to PQP (Public, Quasi-Public) Zoning District, approximately 26,061 square feet of property, filed by City of Elko, and processed as Rezone No. 1-20, and matters related thereto. **FOR POSSIBLE ACTION**
The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 1-20. CL

Cathy Laughlin, City Planner, explained this is a housekeeping issue. This parcel is the Southside Fire Station on the corner of 9th and Lamoille Highway. We did a Master Plan Amendment to change the zoning to public and put it in conformance with what the actual use is as a fire station.

Mayor Keener called for public comments. No comments were made.

**** A motion was made by Councilman Chip Stone and seconded by Councilwoman Mandy Simons to adopt resolution 22-20.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible action to adopt Resolution No. 24-20, a resolution of the Elko City Council, adopting a change in zoning district boundaries from AG (General Agriculture) to R (Single Family and Multiple Family Residential) Zoning District, approximately 2.415 acres of property, filed by Legion Construction and Development LLC., and processed as Rezone No. 5-20, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the Subject Zone Change Request on September 1, 2020, and took action to forward a recommendation to City Council to adopt a resolution, which approves Rezone No. 5-20. CL

Cathy Laughlin, City Planner, explained when we annex property into the City it automatically defaults to general agriculture. This is changing this parcel to R (single family and residential). There are 18 townhomes proposed for this parcel. The rezone will run concurrent with the tentative map. Planning Commission considered this rezone and recommended to adopt the resolution.

Mayor Keener called for public comment. No comments were made.

**** A motion was made by Councilman Chip Stone, seconded by Councilman Bill Hance, to adopt resolution 24-20.**

The motion passed unanimously. (5-0)

- C. Review, consideration, and possible action on an appeal filed pursuant to Elko City Code 3-2-18(E)(3), appealing the Elko City Planning Commission's decision to deny Conditional Use Permit No. 3-20, filed by Ruby Mountain Acton Academy on behalf of Gladys Burns, which would allow for a Teaching of the Creative Arts/Childcare Center within an R (Single Family and Multiple Family Residential) Zoning District, located generally on the southeast side of West Birch Street (675 W. Birch Street), and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to Elko City Code 3-2-25, the Council may affirm, modify or reverse the decision of the Planning Commission.

The Planning Commission considered the subject conditional use permit on August 4, 2020 and took action to deny the conditional use permit. CL

Mayor Keener stated on July 12, 2020, Ruby Mountain Acton Academy, dba Acton of the Rubies (Acton) filed an application for a conditional use permit (CUP) to provide home schooling support services to home school students in the residence at 675 W. Birch Street in the City of Elko. The function of the home schooling support services is to supplement the home schooling experience by providing socializing and creative arts services for students being home schooled by their parents. A public hearing of the CUP application was held before the City of Elko Planning Commission on August 4, 2020. After a lengthy public hearing, the Planning Commission voted 4-2 to deny the application. The applicant appealed the Planning Commission decision to the Elko City Council pursuant to City Code § 3-2-18(E) and 3-2-25. This is the public hearing of the appeal before the City Council as required by City Code § 3-2-25. It will be conducted by the following procedure and rules:

- This public hearing is de novo. That means that all interested parties may present all relevant testimony and evidence anew, as though no evidence had been presented to the Planning Commission.
- As the appellant, Acton has the burden of proof and persuasion on appeal.
- That Acton shall be first to present the grounds for appeal, all of its supporting testimony, evidence and argument.
- Any members of the neighborhood or public shall then be given an opportunity to speak and provide comment.
- The city may then respond to Acton's appeal.
- Acton may then present any rebuttal, argument or evidence. The mere failure of Acton to provide rebuttal may not be considered by the Council in deciding the appeal.
- The City shall then be given the opportunity to make closing argument to the Council.
- Because Acton has the burden of proof on appeal, Acton shall then be given the opportunity to make closing argument to the Council.
- Acton, neighbors, members of the public and the city are entitled to be represented by counsel, present testimony, evidence and argument on all issues raised on appeal.
- The Council shall consider the recommendations and findings of the Planning Commission as shown by the official record of the CUP application.
- As a general rule, the Council may not consider evidence or other matters not raised at the Planning Commission level. However, the Council may do so after determining that such additional evidence will be helpful to a clear understanding of the issues on appeal.
- The rules of evidence shall not apply.
- The Council Presiding Officer may limit testimony or other proffered evidence that is duplicative, unnecessarily argumentative or not reasonably related to the matter being appealed.
- The Presiding Officer may terminate the hearing upon finding that sufficient testimony, documents and arguments have been presented to enable the Council to fully deliberate and decide the appeal.
- The Presiding Officer shall first request from Acton a summary of all remaining matters it desires to present at the hearing.
- At the conclusion of the hearing, the Council shall make a final decision that is consistent with the requirements of the Elko City Code to affirm, modify or reverse the decision of the Planning Commission.
- In reviewing a decision on an appeal, the Council must be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020:
 - a. For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing bodies of Nevada cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures;
 - b. Any such regulation, restriction and control must take into account:
 - The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and the availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities.
- The decision of the Council shall be considered the final decision for the purpose of judicial review.

Mayor Keener asked Mr. Barrows if everything was covered that needed to be.

Mr. Barrows answered yes. Mayor Keener called for Ms. Katie McConnell to present

Katie McConnell, Attorney for Acton Academy, advised that Acton's principals were present. Acton is appealing the planning commission's decision that was rendered August 4, 2020. Acton applied for a Conditional Use Permit (CUP) that was for the teaching of creative arts/child care center, a resource for homeschooling families. The property at 675 W. Birch St. is located in close proximity to several other youth programs. There is a map provided with the statement of appeal that shows the proximity of the youth services. Acton is a Nevada Non-Profit Corporation and has a 501-C3 designation. Acton is not a school and provides resources and services to home schooled families. During the Planning Commission hearing Acton was referred to as a school. This was incorrect. They operate Tuesday, Wednesday and Thursday from 8:00 A.M to 3:00 P.M, for ten months out of the year. The pickup and drop off times are reflected in City of Elko's staff report for approved CUP. The property would be used to conduct the meetings and activities that would allow children to participate in learning activities. Pursuant to the CUP staff report there would be 24 children at this location. Prior to the Planning Commission meeting the City of Elko staff reviewed the request thoroughly and issued a staff report recommending approval of the CUP with specific findings regarding parking, pick up and drop off, and operating three days a week. According to Elko City code 3-2-18(E), the commission must have specific findings and actions. The planning commission denied the CUP without findings or a notice of denial, which is a violation of the Elko City code 3-2-18(E). It is important to point out that this is a permissible use under the code. The applicant was never provided a notice of denial that included findings from the Planning Commission. Acton Academy is appealing the decision from the Planning Commission for the following reasons; the commission is required to make findings as to why the applications supporting data is not applicable in conditions and requirements the CUP will be met and the reason of denial was not provided. There has been no evidence presented to date on behalf of the Planning Commission's decision to deny the CUP or support why it was denied. City staff has recommended the CUP as long as the conditions fall within the recommendation are abided by. The neighbors presented many reasons they did not want this approved and all of the concerns were addressed in the CUP conditions. Acton Academy has agreed to follow those conditions and address the concerns with the City. One Commissioner stated "who are we to overrule the public?" The commission is there to support the City of Elko code, not to overrule the public. Acton was also referred to several times as a school, and this is not legally sound. Acton does not meet the NRS requirements of a school. The application is for creative arts and a childcare. Noah's Ark operates nearby with 50 children from 6:00 a.m. – 6:00 p.m. daily. Acton has been doing this for years. Acton Academy is requesting the Council to overturn the decision of the Planning Commission.

Mayor Keener stated there is provision for members of the neighborhood or public to be given the opportunity to speak. There were letters that were sent in. He had one that was dated September 22, 2020 from Jamille Sirotek and another one with over 20 people from the neighborhood that signed the letter. He asked for additional comments. (See Exhibit A)

Liza Baumann, 975 Dotta Dr. Elko, stated she sent a letter, however, she did not know if it was received. She is a neighbor in the area. She does not know why this is an issue when there are better places in town to have this establishment. The area is not a safe place and does not have the necessary sidewalks or drop-off section. The neighborhood is against having the school in the area.

When she first heard about this, they were told there would be 15 kids. At the Planning Commission Meeting, they were told it would have 24 kids. At this point, no one has answered the question of how many kids would be allowed there per code. She also questioned if it is a school or a child care facility. She addressed the concern of the CUP to stay with the property if Acton moves to another location. The home values can also be affected if the CUP is approved. Mayor Keener confirmed we did receive her letter.

Kelly Wooldridge, City Clerk, advised there were several letters that were received. The letters have been entered into the record. Letters were received from: Earl and Mary Craig of 1030 Dotta Drive, the petition with 20 names and addresses, and Roseann Carpenter.

Robert Loranger, 1000 Dotta Dr. Elko, said he disagreed with Acton Academy's definition of not defined as a school. He explained that the definition of the word academy is a school. He had invested capital into his home as others did in his neighborhood. The clientele of Acton Academy are students that get transported to the Academy. He is concerned that the CUP could be transferred if the home is sold or leased and it could be to a company that isn't even from Elko. If the CUP is approved, this would affect the health, safety and may impact home sales. He asked the City Council to uphold the decision of the planning commission.

Jamille Sirotek, Sewell Drive stated she just moved to the area a few months prior. They didn't want to live near any businesses specifically. They don't want any issues or to have anything happen. She agrees with her neighbors that do not want this academy and she hoped it got denied by the Council.

Mayor Keener asked for people that live in that neighborhood that may be in favor of the Academy to make some comments. There was no response. He moved on to the City's response to Acton's appeal.

Cathy Laughlin, City Planner, wanted to clarify one of the comments that Noah's Ark is zoned commercial. This is inaccurate, it is zoned residential and has a CUP on it with a new owner that transferred the CUP in a public hearing a few years ago. She said her entire staff report was included in the Agenda Packet. She didn't to go over all of the sections of code that they analyze when they receive these applications, but she did want to go over a few of them. Under Section 3-2-3, it states that under conditional uses, certain specified uses designated as conditional uses permitted, may be permitted as principal uses subject to special conditions of location, design, construction, operation and maintenance hereafter, specified in this chapter, imposed by the Planning Commission or City Council. That is where it gives us the right to add conditions based on their use and their intensity of use and the impact they would have to the neighboring area. Looking at Section 3-2-4, the existing principal permitted house, as a single family residence, it does conform with that section, as well as the development standards listed in 3-2-5. Under our Traffic Access Parking and Loading regulations, it would not meet the requirements for a conditional use. It does meet the requirements for a single family residence but it would be required to meet those requirements as an approved conditional use permit. Therefore, they had several recommended conditions listed in the report that would address that parking and access. There were eight different findings that were listed in the staff report, all of which were in support. Those findings were leading to an approval recommendation, but a conditional approval. They had eleven conditions in the staff report. They felt they were addressing the concerns that were brought up by the public prior to the hearing, as well as the evaluation of all staff to include fire,

building, community development, engineering and planning. She went over the background of how this came about. I was contacted on a complaint form on May 26, 2020 and I was provided a letter Ms. Heguy provided to neighbors about Acton. I reached out to Ms. Heguy on this date. We determined it required a business license. We reviewed 3-2-18, but it did not meet the criteria for a home occupation permit. We looked at 3-2-2 the definition of a school and NRS 388D.020. We request the applicant and her legal counsel to provide us a legal opinion if they felt it met the definition of a school and they provided a letter it did not. We also contacted Elko County School District and the State Board of education. We determined it is not a school. Knowing they pay a tuition we did agree it is some type of a business transaction. We compared the use and activities to child care center. After some research and inquiries, it was determined that the City Code does not call out the Acton Academy as a conditional use permitted but you have to look at what the use is and how the use is similar to other conditional uses that are listed in our code. We then came to the conclusion that a conditional use permit would be required in order for us to have them receive a business license and allow the inspections for that location just as Noah's Ark does. That is how they came to the conclusion they could recommend a Conditional Use Permit. There were no findings in the staff report that were in denial of the CUP.

Mayor Keener asked Rich Barrows, Attorney, at what point could City Council ask questions.

Rich Barrows answered it would be at their discretion.

Mayor Keener asked if there were comments from any other City staff.

Ms. Laughlin stated that all City staff recommended approval and that is part of the agenda packet, as well.

Mayor Keener asked if the Planning Department underestimated the level of outrage within the immediate neighborhood. Was she surprised at the pushback?

Ms. Laughlin answered she was not surprised because once the complaint came into the Planning Department in May, she received a few phone calls and such right after that. She did expect neighbors to be in opposition. We were simply unaware that Acton Academy has been operating at the Girl Scout House for two years. She wasn't aware of their type of use or their business at all.

Mayor Keener asked, we have this petition that appears to be most of the address in that area, is there anyone that lives in the immediate area that supports this CUP.

Ms. Laughlin answered included in the agenda packet was the meeting minutes from the Planning Commission. There were several people that spoke on behalf of the Acton Academy and in support of Acton Academy. There is also another letter from another adjacent neighbor that she was just concerned with the sidewalk issue and possibly tearing up her landscape if we were to require Acton Academy to sidewalk the entire side of W. Birch. Other than that, she was in support of it. This can be found in exhibit six of the packet.

Councilman Schmidtlein asked Ms. Laughlin if it was fair to say that Noah's Ark was established prior to residential homes being built in the area.

Ms. Laughlin said the first Noah's Ark was by Grammar No. 2 in the Tree Streets. This one was Noah's Ark No.2. They both had conditional use permits. The one that was close to Grammar No. 2 has since been converted to a single family residence and is not a Noah's Ark. The other one could have some new construction going in around it but the school was there, the church was there, and there were several things in that vicinity.

Mr. Schmidtlein said that was he was getting at was that Noah's Ark was built as the neighborhood was being built. When people were going in and purchasing homes, Noah's Ark was already established. The current location of where they are trying to assess the Academy, you already have an established neighborhood that is trying to be transferred into an Academy. There are two different comparisons there.

Mayor Keener added you have the Presbyterian Church and you have the Northside Elementary, and then you have the Noah's Ark across the street, it is right in the character of the neighborhood to have an even more public type facility there. You move there, you know what you are getting.

Councilman Stone said he has had three people contact him regarding being against this happening and in regards to letting it move forward. They felt they moved there and that was their area. They perceive that this will make the area busy and create a busy atmosphere, different than what they moved there for. When he was studying the notes there seemed to be some concerns about sidewalks and kids walking and riding their bikes there. He thought he read something about some standing water issues in the alley that would need to be addressed if this was to move forward. He has not had anyone contact him in support of the Academy.

Councilwoman Simons said there were other similar facilities in the area. She could see their view. She didn't know how she would feel if this type of facility opened up next door to her. Overwhelmingly, the input she has received has been against it. The neighbors don't want it so this is a tough decision.

Councilman Stone asked if the neighbors to the left or right are in support of it. He was trying to read all the comments but he had a hard time telling which was which.

Ms. Laughlin answered the neighbor to the southwest is Exhibit No. 6 in the agenda packet. The neighbor to the northeast was one of the letters they received today that Ms. Wooldridge had sent them. They were opposing the Academy.

Councilman Hance said he was mixed both ways. He remembers the Beehive homes on the other street. On the opposite side, we would all like to have our neighborhoods perfect, with the white picket fence, stay there and never have traffic come down your street. Sometimes things have to go forward. If there is no specific reason to deny, we as the Council don't have the latitude. We need to take all things under consideration but if there is no reason to deny the use on their own property, it is tough to just come out and say no. He would be unhappy if he made a request for something and someone came back and said, "we just don't want you and we don't want it there." Just looking at the one page regarding sidewalks; there are plenty of streets in Elko that do not have sidewalks. He lives on 5th Street and there sections of 5th Street that do not have sidewalks. If there is no traffic, people will walk on the street. People have been walking on the street for over 50 years because there hasn't been sidewalk there since it was built. As long as the property use does not turn itself into a nuisance. There are businesses like this around town. It is very low

profile and unless you know what is going on there, you don't know what it is. He is on the fence both ways but there is also what is in the City Code that we have to uphold as well. We have to balance that.

Mayor Keener asked Rich Barrows if declining property values could be defined as a nuisance.

Mr. Barrows answered if there was evidence of that, yes.

Mayor Keener asked what about if the land use of the CUP is inconsistent with the surrounding properties. The CUP they are seeking, it is a unique use. It is a unique land use that is not currently at play in that neighborhood.

Mr. Barrows answered he thought the Code was written to state that certain uses that are compatible with residential use in a residential district may be allowed if the issues related to them can be met with conditions.

Ms. Laughlin wanted to address the comment regarding the sidewalk. There is sidewalk on the north side of W. Birch Street. NRS does state that you can cross the street without being at an intersection or in a crosswalk as long as you are giving the right-of-way to the traffic, meaning the vehicles, in the street. If students were walking to school, they do have sidewalk options of getting to the property and crossing the street at that location.

Councilman Stone asked what the ages of the students at the academy will be.

Ms. McConnell answered the ages will be from 5 to 12.

Councilman Stone asked if that was a permanent thing or will that be changing.

Ms. McConnell answered the actual ages of the children could vary but the targeted grades are Kindergarten through 6th Grade.

Scott Wilkinson, Assistant City Manager, said one of the concerns that came up at the Planning Commission meeting from the residents in the neighborhood was if teenagers started going to the facility or the Academy and they were driving, that would increase traffic. One of his comments to the Planning Commission was if that was a concern by the commission it could also be a condition that could be added to the CUP that there is an age limit.

Mayor Keener wanted to put something out there to Katie McConnell, it is evident to him from correspondence that he has had and the individuals they have heard from this evening, it is overwhelming with one exception, that the neighborhood does not want this Academy there. Given that, do your clients really want to try to move forward with something that is extremely unpopular?

Ms. McConnell said the problem is that the neighborhood has formed an opinion on what they think this is going to be and they continue with that opinion. They feel this will be a school with people coming and going, cars, drug use, all different kinds of things, all day and all night. It won't be like that. Councilman Hance used the words low profile. That is exactly what this is. The truth is, her clients are doing the right thing. They were approached by Ms. Laughlin and have

spent months looking into how to approach this in the current City Code to do this legally. There are a number of Day Cares that operate throughout the City. Right now there are a number of Home Schools, Micro Schools as she calls it, which are already without any conditional use permit or any type of home occupation permit. What Acton Academy has done, is they have gone through the procedure under the City Code to follow exactly as City staff has recommended. The neighbors being upset and saying they don't agree with it is kind of the cart before the horse because we don't even know what this is going to look like on a daily basis. Most of their concerns have been addressed by the conditions that are put in, including the parking, including the hours of operation, the days of operation, etc. This all started because Angie wanted to be a good neighbor and she went door to door to her neighbors and told them what she wanted to do. That was how this whole thing started. She believes that Acton wants to be a good neighbor and they will be a good neighbor if this is approved in conformance with the City Code. The problem is that basically with a lot of complaints with no legal basis for the complaints and compliance under the City Code. It is generalized complaints that this will lower property values. You can't pick your neighbors with the uncertainty of who buys the property year after year. We were trying to do the right thing by presenting it and tell City Council and Planning Commission what the plan is with the property and move forward with that. It feels like the neighbors are trying to bully this property owner out of what she is legally entitled to do with her property. The question that they had for Mr. Barrows was about the youth. This is a permissible use with a conditional use permit for this type of code. The City Code already addresses that this can be allowed in a residential neighborhood and in that zoning district. Her clients have this property. The reason they have this property is because they looked at other properties but there wasn't any outdoor space for the children. All the places that are zoned commercial are warehouses or office buildings that do not have the outdoor space. This property was in the family and it seemed like the best option for what they were trying to do. The neighbors not being aware of what this will actually look like when it plays out, that is not enough to bully her clients out of continuing with the application for a conditional use permit and the compliance with if approved under the code. There are a lot of opinions and emotions from the neighbor side but there is no legal basis to deny it. There are no findings that state that it doesn't conform or won't conform. As far as the neighbors are concerned, the specific conditions can be put in if approved and more conditions can be put in order to address issues.

Mayor Keener asked if there was no basis for the neighbor's concerns, you have had a month and a half now since the Planning Commission denial, what have you done for outreach in the neighborhood to change people's hearts and minds.

Ms. McConnell answered that Angie has reached out to some neighbors that didn't appear today and who didn't send letters in and who did appear at the original meeting to explain what Acton was. One neighbor in particular said she had thought it was a full school, all day every day, that cars would be parked there. They will be there three days a week for 10 months a year, from 8:00am to 3:00pm. Angie reached out from the beginning and some of the neighbors that came today and contested this originally said that it didn't sound bad. She went door to door and approached them all preemptively to try to be a good neighbor. She was attacked at that meeting. It hurt her business moral. Her morals were attacked and her values because she tried to follow procedure in City Code. When I say there is no basis, I say there is no legal basis. We aren't asking for a rezone or a commercial business in a residential neighborhood. We are asking for the approval of this Conditional Use Permit that is already allowed in the code. If it lapses for over a year then the approved use runs out. It just can't go on for forever. She has to be operating it that

way and if anyone else wants to operate it as a day care, it would have to go back to Planning Commission to be approved. This is very specific to that use with the conditions.

Mayor Keener asked if her clients have considered the option of leasing the home out and using the revenue from that to pay for a commercial property. You mentioned they looked around and the commercial buildings were lacking yard space. He was sure there is something out there that was made, as there are properties out in Elko.

Ms. McConnell said that wasn't an option. This is a home that has been in the family for a very long time. As many of us know, renters can destroy property. The intent was to keep the home and use within the family. You can see that this would be a wonderful place for Angie and what she does. She understood the question but she didn't think that was the issue. The issue is whether or not this is allowable under the code.

Mayor Keener said just from an equity standpoint, Gladys Burns built that house and enjoyed 60 years of tranquility on that street. It will change the character of the neighborhood with the increased activity in the area. There is no getting around that the traffic is going to increase and to some neighbors it is going to be burdensome.

Ms. McConnell wasn't sure what to say to that. We know there will be people picking up and dropping off. The duty of City staff is to minimize those items. A number of these kids, there are 24 kids, it is mostly multiple children's families. The actual number of families and cars is probably half that. Most of the families have two kids, or three kids. There is probably 10 families. They were doing this at the Girl Scout house for two years and nobody knew they were there.

Councilwoman Simons asked Mr. Barrows, what kind of finding would we have to... We are bound to overturn the decision unless we find some kind of ruling. Can we just say the neighborhood doesn't like it, or this is a miserable spot for this? What are we looking for here?

Mr. Barrows answered the Council has to have findings which support the decision of the Council, whether that is denial or approval, and those findings have to be part of the evidence.

Councilman Schmidtlein said at the end of the day, you are knowing what you are purchasing when you have an established neighborhood. For the past 7 years we have had different hearings in regards to people wanting to come in and build apartment complexes, change to different zonings and everything else. Basically, we had a rule of thumb, if you want to stop something from being built in your backyard, you need to purchase adjacent property. The adjacent property, as Ms. McConnell summed it up, this is a home. Everybody in that neighborhood realize they were purchasing homes at the time they were purchasing homes. He understood there were several residents up there that have been established for 40, 50 or 60 years, and many of them are still up there. At the same time it's like you are trying to take a square peg and pound it in a round hole. He was all in favor of an Academy being established. Education is very, very important. He felt this is being put... It was also mention of people in the neighborhood bullying. They were bullying not to allow this but at the same time, an Academy is trying to bully all the neighbors in the neighborhood, which some are for but a majority are against. He was having a hard time getting off of this situation. He was trying to be very fair on how he looks at this. He and his wife had this conversation last night. She said it was great with all the COVID going on and everything else, that somebody is coming forward and being willing to try to establish an Academy. He felt

it was trying to be pushed into a wrong location. That was his opinion and everybody has their own. It is a very unique situation that is taking place here. He has been contacted a few minutes ago by text that one of the homeowners that only lives two houses down, has not been contacted by Angie of any sort. They are also listening online. Another person texted him a few minutes ago, saying they have not been contacted either and they live on the corner of Sewell Drive. These homes are within a couple hundred feet of what's trying to be established. He was trying to understand how many homeowners were actually contacted in the entire neighborhood.

Ms. Laughlin said her Department, based on the NRS, sends out per the requirements for our legal notifications. If you go to the Agenda Packet right after Exhibit 7, it is on page 243, there is a page and a half of 38 notifications that went out for this Conditional Use Permit to the adjacent neighbors.

Mayor Keener thought Councilman Schmidlein was talking about them not being contacted by the applicant. Is that right?

Councilman Schmidlein answered absolutely correct. Ms. McConnell said Angie went door to door to the neighbors in the neighborhood. He knows of two people that are within 200 feet of that house that had just texted him that were never contacted by Angie going door to door on how they were trying to promote this Academy.

Councilwoman Simons asked Councilman Schmidlein what his findings were. She was onboard with this being a bad idea but wondered what were the findings and the reasons he would state.

Councilman Schmidlein said he would go back to having an established neighborhood that were homes when everybody was purchasing homes. There are no vacant lots in the vicinity of where they are trying to establish the Academy. He wasn't sure if that was a finding or not. Is there enough evidence to come back and say it is going to contribute to a devaluation? He can't say that one way or another.

Melissa Duke, 1011 Dotta Drive, Elko, asked if she could interrupt and make a public comment. She said they fall between the cracks on all of this because they just purchased their house. Moving into the neighborhood, they had no idea any of this was going on. As soon as they moved in, they got flooded with the residents that live here. This neighborhood is established and old. These people were going to them to be a voice for the neighborhood. She was not against the school doing what they do. There are some people that may not be very happy with her right now because their children go there and she is opposed to it. They know these people and they understand why they want their children to go to this facility, yet they don't want the traffic or the extra construction going on. She lives on the end of the street where the sidewalk ends. Her kids are back and forth on a blind corner. She didn't feel it was safe to have children crossing the street there because it is a blind corner and people cut it off all the time. She worries what will happen to property values with this in the neighborhood. Her family chose to move there without knowing anything of what was going on. There may not be findings to be a reason this cannot come here because of X, Y and Z but this is also emotional for everyone there. She didn't think this should go through.

Mayor Keener thanked Ms. Duke for her comments. It was interesting to hear her perspective of being just moved in and she wasn't noticed because she was in the between stages of home ownership.

Ms. McConnell said she was confused as to where they were at in the procedure of the appeal hearing.

Mayor Keener went over the appeal hearing procedures again and said we've had some comments and it was Acton's turn to rebut the evidence or arguments.

Ms. McConnell said what she would like to move on for the rebuttal. If Council could recall, the reason they were hearing this appeal was because the denial from the Planning Commission was without any findings. They just said they deny this. We have the opportunity to appeal because their denial did not comply with Elko City Code. What they have heard for the last hour and a half is basically a number of residents saying they don't want this in their neighborhood. Most recently, Ms. Duke who operates a salon on a conditional use permit in the tree streets. Conditional use permits are permissible within certain residential neighborhoods. She drew the Council's attention to the City Code 3-2-18, which talks about conditional use permits. It says specifically, certain uses of land within certain zoning districts, *shall* be permitted as principal uses only upon issuance of a conditional use permit. When we talk about conditional use permits, it states that it is the express intent of this chapter that any use for which a conditional use permit is required shall be permitted as a principal use in a particular zoning district provided that all special conditions and requirements of this chapter are met. Therefore, the action of the Planning Commission shall be one of recommending approval or denial as to whether the specific conditions have been or will be met. The condition may consider not only the nature of the use of the special conditions but also the proposed location of parking and other facilities within the site, the amount of traffic likely to be generated and how it will be accommodated, and the influence that such factors are likely to exert on adjoining properties. The Planning Commission may make such suggestions it considers desirable and may provide guidance to the applicant in his preparation of application, plans, and date in such a manner as to satisfy the intent of this section. That is what Angie has done here. She has taken into consideration the concerns that have been expressed. The generalized consensus of the neighborhood is that they don't want it here. But she does not see a legal basis that the neighbors don't want it here. The factors of the CUP and the consideration of parking, hours, age limit, and all of the conditions to be put on that, addresses all of the concerns that have been brought forward. There is no evidence that has been presented tonight that shows that property values will decline because of a conditional use permit. Specifically, one of the biggest issues that she keeps seeing brought up is changing the zoning. We are not changing the zoning. We are asking for the City Council to approve a permissible use pursuant to a conditional use permit within this district. When you buy in an R zoned neighborhood, and research the neighborhood, you can find the conditional uses that there are uses that are allowed in that neighborhood. Those are uses that all may be allowed by City Council or the Planning Commission at some point. This is not changing zoning. We are requesting the permissible use that is already authorized as within the Code be approved pursuant to conditions. She understands that there is a lot of public opinion against this because they think it is going to devalue the property, but there is no evidence that it will devalue the property. There is push back from the neighbors. Does it fall within the code or are there findings to support why this does not fall within the code. The applicant can come back and reapply to try to meet the conditions upon which it was denied. In this case, because the neighbors don't want it, she doesn't see how that can be a condition to not allow this conditional use in this situation. She said that Angie went door to door and she did go to the closest neighbors and talked to them and gave them pamphlets. She is not operating a school. She is not requesting that 50-100 kids come into home each day. They are

limited as to how many kids could ever be there based on parking spaces, fire code and square footage. The 24 that has been brought up is the most pursuant to the number allowed under occupancy. She understood that Council has concerns, and Councilman Schmidlein has texts from somebody which we don't even know who it is. They didn't call in or send a letter and we can't really rebut because it is being presented as evidence but we don't even know who has informed you. This use is supported by City Staff and recommended by City Staff. We recommend that Council approve the CUP pursuant to the specific findings and conditions that staff has recommended, as well as any conditions Council wants to put in they feel addresses the concerns of the neighbors. That the CUP be approved with those specific conditions.

Mayor Keener asked if he would take that as her rebuttal statement.

Ms. McConnell looked at the procedures and said she made her rebuttal and City has the closing argument.

Mayor Keener then stated the City will make closing argument to the Council.

Ms. Laughlin said her job is to go through the City Code. It is not to put her personal opinion out there of if she likes this idea or don't like this idea. It does follow City Code. Our City Code actually envisions this type of use within the R Zone District or else we wouldn't allow it as a conditional use permit. That is where she is doing her job and simply going through Elko City Code. She agrees with the applicant and doesn't think they are going to be a burden to the neighborhood or have a large impact on the neighborhood because we have addressed a lot of that with conditions. As Ms. McConnell stated, they have worked out of the Girl Scout House for two years and we didn't even know they were operating there. As a neighbor here at City Hall, if they were a disruptive use, we would have certainly known about it working out of the Girl Scout House. Her findings are listed in her staff report, as well as, the conditions.

Mayor Keener asked if there was an option on the table to do a CUP with a 12-month trial period. In other words, the applicant comes back 12 months after the fact and then we re-hear the item. It might very well be everything they say it is and then the neighborhood would support having it renewed at that point.

Ms. Laughlin answered a CUP does run with the land but it can be revoked. She was bringing up that section of code, 3-2-18. It does state that it can be revoked at any time by the City. It shall be reviewed from time to time by City personnel. Conditional use permits may be formally reviewed by the Planning Commission. In the event that any or all of the conditions of the permit or this chapter are not adhered to, the conditional use permit will be subject to revocation. That sums it up that you can revoke it.

Mr. Wilkinson stated unless our legal counsel states differently, the City Council can add a condition that it is reviewed after a certain timeframe. Because they do run with the land, he was not sure that you could just limit it to just 12 months to start and then have another hearing or something like that. Be believed Council could specifically require a review by the Planning Commission after a certain timeframe. At that time, if there are issues, the City could revoke that permit.

Mayor Keener noted that they have heard from Planning and the Assistant City Manager. He asked Mr. Calder if he had any comments on this item.

Curtis Calder, City Manager, said he did not have anything additional.

Mayor Keener said because Acton has the burden of proof on appeal, Acton shall then be given the opportunity to make closing argument to the Council.

Ms. McConnell said she thought they gave their closing argument before. She would just reiterate that they agree with City staff that this is a permissible use within the City Code and as long as all of the conditions are met that are imposed upon the conditional use permit that this is something that is allowed within this specific type of zoning district and that the conditional use permit with the findings and conditions as recommended by staff and any conditions that Council may impose, that it be approved and the decision of the Planning Commission be reversed.

Mayor Keener read, Acton, neighbors, members of the public and city are entitled to be represented by Council, present testimony and argument on all issues raised on appeal. Is there any public that would like to weigh in one last time?

Melissa Duke said she wanted it on the record that Ms. McConnell stating that she runs a business out of a conditional use permit is absolutely true. That is because she applied for a brand new conditional permit for her residence and it was denied. She had to go find one that was already established. This difference is that was already established and this one is not.

Robert Loranger said he heard something from the Planning Department that some type of correspondence was sent out to the neighbors concerning this permit application before the meeting. Did he hear that correctly? He did not receive anything. More importantly, one of the things in the introduction was that Angie Heguy came to his house and they talked. He was concerned that in her letter she stated that in September 2020 we will be at housing our program at the Burns house. It didn't state that they would really like to do this. He mentioned it in the Planning Commission meeting that any kind of business like this really needs to reach out beyond an introduction or even a rebuttal. You have to be seeking buy-in from the critical stakeholders which are the neighbors. That's how you get people on your side. Unfortunately, that did not happen. He has been researching Acton Academies in the nation. A lot of them operate on a 5-day a week schedule. He didn't know if this one would expand to a 5-day schedule. Only they can say if that fits into their business plan model. If things move to a 5-day schedule, you are looking at increased traffic, pedestrian traffic congestion even more. What has not been addressed is that it's not just traffic, it's UPS, FedEx, United Postal Service and Elko Sanitation. All of these businesses and government agencies utilize this traffic pattern to service the people that live here. There is a tremendous amount of risk that he felt was not being fully addressed. He would really hope that people really consider a bit beyond just the legal code and look at the inherent risk that doesn't seem to be getting the proper attention. That concluded his comments.

Ms. Wooldridge stated there was someone on the phone.

The caller said on the County website it says that Noah's Ark is zoned commercial.

Ms. Laughlin said that is not correct. She was probably looking at the land use in the County website. The land use is completely different than the zoning. The zoning is single family residential.

The caller noted that they were told that a pedestrian has to give the right-of-way to a vehicle when crossing a street. She always understood that the pedestrian had the right-of-way. If a kid were to be hit by a vehicle, it would be the child's fault and not the driver?

Ms. Laughlin explained that in that section of the NRS, if there is not a marked crosswalk, then a pedestrian can cross at a 90 degree angle across the street but it has to be giving the right-of-way to the vehicle.

The caller clarified that the vehicle would not be at fault if there were to be an altercation and the pedestrian was hit in that situation.

Mr. Wilkinson said that would be determined by a Police investigation.

Liza Baumann, 975 Dotta Drive, said there had been a question earlier about who might be in favor or opposed and whatnot. On that side of the street, all of the neighbors on the right and on the other side are opposed to it, as well as, some of the neighbors behind it because their yards back up to the back of this where they will be outside enjoying their outside stuff. She has been operating out of the Girl Scout House for two years now. What license has she been operating under until now?

Ms. Laughlin answered that she has applied for a City of Elko Business License. She does have a state license.

Ms. Baumann said she has been in business for two years. Has she had a license for those two years?

Ms. Laughlin answered no she has not. Our Code states that even though we waive the fee for non-profit organizations, they are still required a business license. There are several non-profit organizations, such as churches, that are unaware of that as well.

Ms. Baumann asked if they would be required to have a state license.

Ms. Laughlin answered she does and you can go onto the State Secretary of State website and search for that.

Ms. Baumann asked what name it was under. She couldn't find it.

Ms. Laughlin answered it is under the Acton Academy of the Rubies.

Ms. Baumann said there were a lot of points made earlier about how she is going about this legally and that we should all appreciate that, but realistically, she hasn't been for two years. She just wanted to make that point.

Mayor Keener read from the list of instructions. He stated the Council shall consider the recommendations and findings of the Planning Commission as shown by the official record of the CUP application. He stated thank you very much Planning Commission for not providing any findings which makes the task more difficult for this Board, thus Mr. Barrows DE Novo designation. Moving on to number 11: As a general rule, the Council may not consider evidence or other matters not raised at the Planning Commission level. However, the Council may do so after determining that such additional evidence will be helpful to a clear understanding of the issues on appeal. 12. The rules of evidence shall not apply. 13. The Council Presiding Officer may limit testimony or other proffered evidence that is duplicative, unnecessarily argumentative or not reasonably related to the matter being appealed 14. The Presiding Officer may terminate the hearing upon finding that sufficient testimony, documents and arguments have been presented to enable the Council to fully deliberate and decide the appeal; provided, the Presiding Officer shall first request from Acton a summary of all remaining matters it desires to present at the hearing. Mayor Keener asked Ms. McConnell if she has anything else. She stated she would like to get back on track. They have made their closing argument and stated their position. To rebut from the most recent neighbors comment, a lot of this issues were discussed at the Planning Commission. The staff already said three days a week, not five. She reiterated this is a permissible use and would like the CUP approved. Mayor Keener stated 15. At the conclusion of the hearing, the Council shall make a final decision that is consistent with the requirements of the Elko City Code to affirm, modify or reverse the decision of the Planning Commission. This is where we are at right now and we need a motion with some findings. As everyone contemplates that he stated 16: In reviewing a decision on an appeal, the Council must be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020: a. For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing bodies of Nevada cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; b. Any such regulation, restriction and control must take into account: The potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and the availability of and need for affordable housing in the community, including affordable housing that is accessible to persons with disabilities. Mayor Keener told Mr. Barrows he fails to see how this will effect what we are doing here tonight. Mr. Barrows agreed and said it is stated because NRS requires a CUP considers these factors and these were not involved in this appeal. Mayor Keener called again for a motion with findings. He asked if the Board has any questions of Mr. Barrows. Councilwoman Simons asked if a legitimate finding could attach to the health, safety, general morals and welfare of the neighborhood. Mr. Barrows stated he would think there would need to be something specific related to health, general morals or welfare. Mayor Keener stated Mr. Loranger brought up the fact of more people and more traffic, more delivery vehicles etc. if this could be construed to be some kind of harm to the character or safety of the neighborhood. He is having a difficult time finding a justification that is safety based. Councilwoman Simons agreed and stated this is a very poor decision to put this business at this location with the blind corner. However, she isn't sure this is a finding that supports the Planning Commission's decision. Councilman Stone stated he envisions a Sysco Diesel truck going down the road to unload, commercial garbage truck, and the safety concern of the blind corner. He loves the idea of the Academy but the location is poor. Mayor Keener stated it is a great concept and great program, but it is a square peg round hole situation. He asked Mr. Wilkinson to expand on the blind corner. Scott Wilkinson, Assistant City Manager stated that when staff evaluated the location they believed that with the speed limit in the neighborhood the safety issues were addressed with the conditions. It is a difficult corner so some of the things the

Council has mentioned do present difficulties. He is not sure if there are any conditions that staff could recommend that could go any further than what has already been considered. Staff took into account all of the issues brought up but there is some uncertainty. Mayor Keener asked if anybody else had a comment. He stated in the absence of having any findings we are looking at a unique situation and asked if it is appropriate to table this until we have some findings. Mr. Barrows stated one alternative is to take action and make a decision and then follow up after the meeting with findings that the Council can adopt at the next meeting. Ms. McConnell stated the appeal statute states the Council shall render a decision within 60 calendar days of receiving the appeal which was on August 13, 2020. Mayor Keener stated there are still several weeks and he does not see this as an issue. The situation is just so unique and an unforeseen scenario the neighborhood did not expect they would have to deal with. He again called for a motion.

**** Councilman Hance made a motion and Councilwoman Simons seconded the motion to approve the CUP as presented in the staff report and its recommendations absent any findings to deny it.**

Mayor Keener clarified you are moving for approval of the CUP. Councilman Hance stated that is correct because we have no findings in City Code or NRS that we can say no to other than our emotions or feelings. We either follow the Code and NRS or we don't. You are not going to see a Sysco truck driving down a City street. Every subdivision we approve up 5th street adds traffic to 5th street. It takes five minutes to make a left turn on 5th street. There comes a point where you say the City is going to grow and be dynamic. This is why we have the City code. For many years it has been haphazard and I give staff kudos for trying to straighten it out and follow code. Something is going to change in neighborhoods one way or another. There is no way to get around the City growing and changing. If it passes muster on the Code and on NRS we can't deny it just because we don't like it. I don't like that my neighbor's house is purple. If I don't like it I open up my wallet and buy his house. Mayor Keener stated all good points.

The motion failed (2-5 Councilmen Schmidlein, & Stone, Mayor Keener voted against)

Mayor Keener called for another motion. Councilwoman Simons stated someone on the other side of the issue needs to make a motion. Councilman Stone asked about Mr. Barrow's idea of following it up with the safety issues. Mayor Keener asked something along the lines of affirming the denial with findings that will be submitted by legal counsel to support the denial. Councilman Stone asked what happens if they do not come up with findings. Mr. Barrows stated there could be proposed findings drafted and submitted to the Council and they would have to vote if there is evidence to support these findings or reject them. Councilwoman Simons stated she thinks it's an amazing idea but the location is bad. If you cannot come up with a finding tonight I think we need to approve it. It is disingenuous.

Mr. Barrows proposed two things to consider: 1) the possibility the Council consider the point made the current neighborhood is old and established and everyone that is there now purchased their home with Acton not being in business. This has nothing to do with neighborhood opposition. 2) In Nevada law in the case of the Stratosphere vs. the City of Las Vegas which stated that while general opposition by neighbors alone may not constitute general evidence to support a land use planning decision, a local government may weigh public opinion when making a land use decision. Furthermore, both substantial and specific public opposition may itself constitute substantial evidence to support the local government's decision to deny a land use request.

Councilman Schmidlein stated in a neighborhood that has already been established and the blind corner issue should be a basis for denial. Then the Nevada law with the Stratosphere situation, can this be a basis for denial. Mr. Barrows stated addressing only the Stratosphere case decision, public opposition may constitute substantial evidence to deny if the public opposition is substantial and specific. There is no question it is substantial. The question is if the Council believes it is specific opposition as opposed to general opposition. Councilman Schmidlein feels it is substantial.

Mayor Keener stated he will entertain a motion to uphold the Planning Commission's decision to deny Conditional Use Permit 3-20 filed by Ruby Mountain Acton Academy on behalf of Gladys Burns and the findings being that this is a gentrified established neighborhood and Acton was not there when many recent residents purchased their homes, there is also the issue of the blind corner on West Birch and finally there is substantial public opposition to this CUP that is very specific and overwhelming in the immediate surroundings.

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The motion passed (4-1, Councilman Hance voted against)

VI. REPORTS

A. Mayor and City Council

Mayor Keener stated he has a meeting tomorrow with Southwest Gas Government Relations. There is a movement in the State to go all renewable and get rid of gas appliances in all new homes. He also stated kudos to the COVID task force for finally bringing the numbers down and getting Elko out of the red zone. There was a meeting involving elected officials and school district trustees. We have all heard from parents, employers, and kids that they want to be back in school. We need to have an executable plan in place by the end of this distance learning period to get kids in school.

Councilman Stone gave a shout out to law enforcement. They use great care and do all they can. Our local police department receives 200 (+) calls a weekend and we really appreciate them.

Mayor Keener attended the 9/11 ceremony honoring all law enforcement, first responders and fire. It is great to live in a community that honors the law enforcement.

B. City Manager

Curtis Calder stated that during the meeting, we got the new COVID numbers and Elko County has another 12 cases and this is not something we want to hear. We were doing really well so hopefully we will not trend back

up. If we stay in the yellow zone we can go back to live meetings and are tentatively planning the next meeting to be live.

C. Assistant City Manager

D. Utilities Director

Dale Johnson stated walls are going up at the new shop. Last two days has been steel work. The golf course project is moving along. We were able to find a secondary source for water last week and it has made a difference.

Mayor Keener discussed a letter he received complimentary of the golf course work.

Councilman Schmidlein has also received positive calls.

Mr. Johnson stated it was a team effort with the water crew, fire department, and golf course workers.

Councilman Stone asked how the biobot numbers are this week.

Mr. Johnson stated the latest report shows we only have five new cases and the concentration is at about 148, 000.

E. Public Works

Dennis Strickland stated they have been busy paving. They finished up Dotta Drive and got all of Mr. Ormaza's work done and it looks nice. They have finished the first section of Country Club and it will reopen tomorrow. They will start on Cedar Street tomorrow. Cedar Street is looking great. Ms. Carter and her team did a great job again. We will be within our targeted budget. We are finishing patching. Facilities is working on signal upgrades. We are getting good traffic data and will be making some adjustments. Especially on Spruce and Mountain City Highway.

Mayor Keener asked if Country Club Drive's old asphalt is at a different elevation than the new one.

Mr. Strickland stated yes but we have a plan to overlay at the end. We need different aggregate and this will solve the issue. It is not a safety hazard at this time. It is smoother than what it was previously.

F. Airport Manager

Mayor Keener asked if the parking system is live.

Mr. Calder stated as of a week ago it was not. If it is live, it is temporary until we order a new system. We are moving forward with this purchase.

Councilman Schmidlein asked about some props at the airport.

Mr. Calder stated this is the annual ARC training. A contractor comes here and sets up props so staff do not have to travel.

G. City Attorney

H. Fire Chief

Chief Griego stated SLC closed their ARC training facility so we had to send crews to California which is very expensive. We are hoping moving forward with an AIP grant to have a training center in Elko. This could become a revenue maker for the airport.

I. Police Chief

Lieutenant Palhegyi wanted to thank the Council for their kind words toward the Police Department.

J. City Clerk

K. City Planner

Cathy Laughlin stated no Report.

Mayor Keener thanked her for the work on the CUP item stating it was a difficult hearing and stated he understands where Councilman Hance was coming from and it just did not feel right and we may need to look at changing code to accommodate situations like what we dealt with tonight. The Board did a good job deliberating and did the best they could.

- L. Development Manager
- M. Financial Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. Comments may be made through GoToMeeting.com, or by calling (775) 777-0590, or email comments to: cityclerk@elkocitynv.gov. **ACTION WILL NOT BE TAKEN**

Mayor Keener reminded everyone to register for the Census.

ADJOURNMENT

The meeting was adjourned at 8:23 p.m.

Mayor Reece Keener

Kelly Wooldridge, City Clerk

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible reappointment of Dennis Strickland as Chairperson for the Storm Water Advisory Committee, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **CONSENT**
4. Time Required: **5 Minutes**
5. Background Information: **Per the Storm Water Advisory Committee Bylaws, the chairperson serves a two-year term. Dennis Strickland has served as Chairperson since September 11, 2018 and is now due for reappointment. Article III, Section 1 of the committee bylaws states that the City Council shall appoint the Chairperson. MR**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **List of Current Board Members, Committee Bylaws**
9. Recommended Motion: **Reappoint Dennis Strickland as Chairperson of the City of Elko Storm Water Advisory Committee**
10. Prepared By: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Council Agenda Distribution:

Current SWAC Board Members

Dennis Strickland	Chair
Bob Thibault	Vice Chair
Jason Demaline	Secretary
Bill Hance	City Council / Liason
Lana Carter	Member

Term

Sept 25, 2018-July 1, 2020	
August 14 2019-July 1, 2021	
August 14 2019-July 1, 2021	
December 11, 2018 -	
Indefinite Term	12/11/2018

Membership Expired /Changed

Reece Keener	Member
--------------	--------

Date

City Council Rep	12/11/2018
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CITY OF ELKO STORM WATER ADVISORY COMMITTEE (SWAC)
BYLAWS
Adopted March 27, 2012

ARTICLE I ESTABLISHMENT AND PURPOSE

Section 1 The City of Elko Storm Water Advisory Committee (SWAC) was established by the Elko City Council on or about May 24, 2005.

Section 2 The City of Elko Storm Water Advisory Committee was established to serve as an advisory board to the Elko City Council on matters relating to water quality and storm water management within and adjacent to the City of Elko.

ARTICLE II MEMBERSHIP, APPOINTMENT, QUALIFICATIONS, TERMS

Section 1 *Membership:*
The City of Elko Storm Water Advisory Committee shall consist of five (5) members, which shall include one member of the Elko City Council; this member shall be appointed by the City Council. Members will be professional representatives from the Community at large, federal and state land management agencies, contracting firms, engineering design firms, and academia. Prospective members of the Storm Water Advisory Committee shall be appointed by approved members.

Section 2 *Terms:*
a. The terms of the Chairperson, Vice-Chairperson and Secretary shall be two (2) years.
b. All terms shall expire on June 30 of the respective year.
d. Other members may serve indefinite terms.

Section 3 *Minimum Qualifications for appointment include:*
a. Interest in the City of Elko Community.
b. Ability to work cooperatively with individuals, groups, community agencies and organizations.
c. Willingness to meet and conduct business under the Nevada Open Meeting Law.

Section 4 Any Committee member who compiles more than three (3) consecutive absences, or fails to attend more than seventy-five (75) percent of the regularly scheduled meetings within a calendar year, shall be considered to have resigned.

Excused absences are defined as absences due to illness of a member or a member's family, employment related activities, or other instances as approved by the Chair on a case-by-case basis. Notification of absences is to be made to the Secretary of the Storm Water Advisory Committee.

ARTICLE III OFFICES, DUTIES AND APPOINTMENT OF OFFICERS

Section 1 The Elko City Council Storm Water Advisory Committee (SWAC) request that the Elko City Council shall appoint the Chairperson. The Vice-Chairperson shall be elected by the members. The Secretary shall be the City Environmental Coordinator unless otherwise elected by the members.

There is no minimum or maximum number of times a member may serve as chairperson, vice-chairperson, or secretary.

Section 2 The duties of the officers shall be as follows:

- a. *Chairperson:* To preside over meetings of the Storm Water Advisory Committee, to ensure that actions are properly taken, to sign official documents and correspondence on behalf of the Storm Water Advisory Committee, to assist City Staff in preparing agendas, and to represent the Storm Water Advisory Committee at City Council meetings and other official functions.
- b. *Vice-Chairperson:* To assume the duties of the Chairperson in the absence of the Chairperson and to assist with publicity efforts as necessary.
- c. *Secretary:* To sign or attest official documents of the Storm Water Advisory Committee, to keep minutes of the meetings, and to review record-keeping functions of the Storm Water Advisory Committee as performed by City Staff.

ARTICLE IV RESPONSIBILITIES, POWERS, AND DUTIES

Section 1 The responsibilities, powers and duties of the Storm Water Advisory Committee shall include, but not be limited to, the following:

- a. Conduct forums and meetings pursuant to Nevada Revised Statutes (NRS) 241 to promote the open exchange of information;
- b. Obtain public input;
- c. Advise the City of Elko on matters relating to water quality and storm water management within and adjacent to the City of Elko.

ARTICLE V MEETINGS, RECORDS, QUORUMS, AND VOTING

Section 1 The Storm Water Advisory Committee shall hold at least one regular meeting in each quarter.

Section 2 Special meetings may be called for as directed by:

- a. The City Council;
- b. The committee chairperson;
- c. A majority vote of a quorum at a regular or special meeting;
- d. By request of a majority of the members.

Section 3 All meetings shall be properly noticed, posted and conducted according to the open meeting law requirements of NRS 241.020.

Section 4 Three (3) members of the Storm Water Advisory Committee shall constitute a quorum for holding meetings and conducting business. A majority vote of the quorum shall be necessary for any official action.

Section 5 Bylaws may be amended as deemed necessary by the Committee for the efficient conduct of its business by a majority vote of the Committee.

ARTICLE VI FILING WITH THE OFFICE OF THE CITY CLERK

- Section 1** The executed original of the bylaws must be filed with the office of the City Clerk within ten (10) days of approval by the City Council.
- Section 2** Originals of the agenda, agenda backup items, and certificate of posting are to be filed with the office of the City Clerk at the time of the posting of the agenda.
- Section 3** Executed original of the meeting minutes are to be filed with the office of the City Clerk within ten (10) calendar days of approval.

ARTICLE VII ADOPTION AND AMENDMENT

- Section 1** These bylaws shall become effective upon adoption by the Elko City Council.
- Section 2** An amendment of these bylaws may be introduced and initiated by a majority vote of the Storm Water Advisory Committee at any regular meeting and shall be acted upon at the next regular meeting. A majority vote of the members of the Storm Water Advisory Committee shall be necessary to recommend an amendment of the Storm Water Advisory Committee Bylaws to the Elko City Council.
- Section 3** Pursuant to Nevada Revised Statutes 241.020, the Storm Water Advisory Committee must use a prepared agenda. Any action items must be submitted to the committee chairperson or his designee at least ten (10) calendar days prior to the official meeting date. Appropriate back-up material must be submitted with the item.

BYLAWS ADOPTED by ELKO CITY COUNCIL: March 27, 2012
BYLAWS MODIFIED by ELKO CITY COUNCIL: August 28, 2012
BYLAWS MODIFIED by ELKO CITY COUNCIL: February 12, 2019

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration and possible acceptance of a Letter of Resignation of Arts and Culture Advisory Board Member Bailey Billington-Benson, and direct Staff to advertise vacant seat, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **CONSENT**
4. Time Required: **5 Minutes**
5. Background Information: **Bailey Billington Benson has submitted a letter of resignation to the Arts and Culture Advisory Board. A copy of the letter has been provided to you in your packet. CC**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **A copy of a Letter of Resignation from Arts and Culture Advisory Board Member Bailey Billington-Benson.**
9. Recommended Motion: **Accept the Letter of Resignation from Arts and Culture Advisory Board Member Bailey Billington-Benson and direct Staff to advertise the vacant seat.**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Catherine Wines, Chairperson
Arts and Culture Advisory Board
Catherine@r6studio.com**

From: Bailey Billington-Benson <lucyllyn@hotmail.com>
Sent: Tuesday, September 01, 2020 12:37 PM
To: catherine r6studio.com <catherine@r6studio.com>
Subject: Arts and culture board

Good afternoon Catherine,

As I'm sure you may have heard, I am moving out of state and as such I need to resign from my seat on the Elko Arts and Culture Advisory Board. I have thoroughly enjoyed my time on the board these past years and am so proud to have been a part of all that has been accomplished.

I look forward to hearing about all the continued happenings and work you will continue to accomplish.

Please pass my along all my best to everyone.

Thank you again for the opportunity to serve our community.

Sincerely
Bailey Billington-Benson

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible appointment of Kelly Wooldridge, City Clerk as the City of Elko Title VI Coordinator, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **CONSENT AGENDA**
4. Time Required: **5 Minutes**
5. Background Information: **The City of Elko is required to have a Title VI program to be in compliance on several State and Federal grants. In early May the City was notified by NDOT that they will be completing a Title VI program compliance review. NDOT has also hired consultants to assist the City in completing the Title VI program plan. The program requires that there is a Title VI Coordinator named for the City. KW**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **None**
9. Recommended Motion: **Approve Kelly Wooldridge, City Clerk as the City of Elko Title VI Program Coordinator.**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible final acceptance of the Public Works Department Preventive Maintenance Project 2020 to apply Micro Slurry Seal to select City streets, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **At the May 26, 2020 meeting, the City Council awarded the bid for the Preventive Maintenance Project 2020 to Sierra Nevada Construction in the amount of \$514,007.00. The contract came in under budget due to field quantity adjustments. Sierra Nevada Construction has satisfactorily completed the work. DS**
6. Budget Information:

Appropriation Required: **\$ 500,675.85**
Budget amount available: **\$ 550,000.00**
Fund name: **General Fund: Public Works Department**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Certificate for Payment from Sierra Nevada Construction.**
9. Recommended Motion: **Approve final acceptance of the Preventive Maintenance Project 2020 to Sierra Nevada Construction in the amount of \$500,675.85**
10. Prepared By: **Dennis Strickland, Public Works Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Sierra Nevada Construction**
afaust@snuc.biz
Aaron@am.engineering

Application and Certificate for Payment

Page 1

To Owner: CITY OF ELKO 1751 COLLEGE AVENUE ELKO, NV 89801	Project: CITY OF ELKO - 2020 MICRO VARIOUS LOCATIONS ELKO, NV	Application No: 1 Date: 08/31/2020
From (Contractor): SIERRA NEVADA CONSTRUCTION P.O. BOX 50760 2055 EAST GREG STREET SPARKS, NV 89435	Contractor Job Number: 57334 Via (Architect):	Period To: 08/31/20 Architect's Project No: Contract Date:
Phone: 775 355-0420	Contract For: PWP# EL-2020-286	

Contractor's Application For Payment

Change Order Summary	Additions	Deductions
Change orders approved in previous months by owner		
Number	Date Approved	
Change orders approved this month		
Totals		
Net change by change orders		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor: [Signature]
By: [Signature] Date: 9/15/20
State of: Nevada County of: Washoe

Subscribed and sworn to before me this 15th day of September 2020 (year). Notary public: Darcia A. Carpenter
My commission expires August 1, 2023



DARCIA A. CARPENTER
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 96-3487-2 - Expires Aug 1, 2023

Original contract sum	514,007.00
Net change by change orders	0.00
Contract sum to date	514,007.00
Total completed and stored to date	500,675.85
Retainage	
5.0% of completed work	25,033.79
0.0% of stored material	0.00
Total retainage	25,033.79
Total earned less retainage	475,642.06
Less previous certificates of payment	0.00
0.000% of taxable amount	0.00
Current sales tax	0.00
Current payment due	475,642.06
Balance to finish, including retainage	38,364.94

Architect's Certificate for Payment

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

Amount Certified: \$ 500,675.85

Architect:

By: [Signature] Date: 9-23-20

This Certification is not negotiable. The Amount Certified is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Application and Certificate For Payment -- page 2

To Owner: CITY OF ELKO
 From (Contractor): SIERRA NEVADA CONSTRUCTION
 Project: CITY OF ELKO - 2020 MICRO

Application No: 1 Date: 08/31/20 Period To: 08/31/20
 Contractor's Job Number: 57334
 Architect's Project No:

Item Number	Description	Unit Price	Contract Quantity	UM	Scheduled Value	Work Completed Previous Application		Work Completed This Period		Completed and Stored To Date			Retention	Memo
						Quantity	Amount	Quantity	Amount	Quantity	Amount	%		
00														
001	MOBILIZATION/DEMOLITION	10,000.0000	1.00	LS	10,000.00	0.00	0.00	100.00	10,000.00	100.00	10,000.00	100.0	500.00	
002	TYPE III MICRO - CITY STREETS	1.5500	297,336.00	SY	460,870.80	.00	0.00	287,293.71	445,305.25	287,293.71	445,305.25	96.6	22,265.26	
003	TYPE III MICRO - PARKING CORRI	2.8500	2,432.00	SY	6,931.20	.00	0.00	3,216.00	9,165.60	3,216.00	9,165.60	132.2	458.28	
004	TRAFFIC CONTROL & TABS	36,205.0000	1.00	LS	36,205.00	0.00	0.00	100.00	36,205.00	100.00	36,205.00	100.0	1,810.25	
Total					514,007.00		0.00		500,675.85		500,675.85		25,033.79	
Application Total					514,007.00		0.00		500,675.85		500,675.85		25,033.79	

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible award of the bid for the Swimming Pool Re-Plastering Project, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Bids for the Swimming Pool Re-Plastering Project were opened on Wednesday October 7, 2020. A Bid Tabulation Sheet has been included in the packet for Council review. JW**
6. Budget Information:
 Appropriation Required: **\$175,600.00**
 Budget amount available: **\$175,600.00**
 Fund name: **Ad Valorem Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of Bid Tabulation Sheet**
9. Recommended Motion: **Award the Swimming Pool Re-Plastering Bid to Adams Pool Specialties Inc. for the amount of \$175,600.**
10. Prepared By: **James Wiley, Director of Parks and Recreation**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

**CITY OF ELKO
BID TABULATION
FOR
2020 Swimming Pool - Plaster Project
DATE: 10/07/20**

Name	Adams Pool Specialties, Inc.
Address	7 Wayne Ct.
City State	Sacramento, CA 95829-1300
Phone No.	916-388-2000

No.	Bid Item Description	Quantity	Unit
1	Mob/Demob	1	L.S.
2	Plaster indoor pool, provide misc. parts as specified.	1	L.S.
3	Remove Plastic light covers and fill light niche with plaster	16	EA
4	Remove and replace expansion joint material and sealant between coping stones and deck @	243	LF
Total			

Unit Price	Total Amount
\$ 5,000.00	\$5,000.00
\$ 160,955.00	\$160,955.00
\$ 375.00	\$6,000.00
\$ 15.00	\$3,645.00
	<u>\$175,600.00</u>

COMPLETE BID

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of an Interlocal Agreement for Communication Facility Exchange between the between the City of Elko and CC Communications for a communication facility exchange, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **UNFINISHED BUSINESS**
4. Time Required: **20 Minutes**
5. Background Information: **The City of Elko approved a non-exclusive franchise agreement with the CC Communications on February 11, 2020. The non-exclusive franchise agreement does not provide for the use of City-owned fiber. On June 23, 2020, the City of Elko approved the development of an agreement for future consideration by the Council. The Council action required a condition that CC Communication construct the entire communication infrastructure proposed in the agreement prior to CC Communications utilizing City owned fiber. The proposed agreement reflects that condition. SAW**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Interlocal Agreement between the between the City of Elko and CC Communications for a communication facility exchange.**
9. Recommended Motion: **Pleasure of the Council.**
10. Prepared By: **Scott A. Wilkinson, Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Council Agenda Distribution: **Mark Feest, GM CC Communications**
 Mark.feest@cccomm.co

**INTERLOCAL AGREEMENT
BETWEEN
CC COMMUNICATIONS, AN ONGOING OPERATION OF
CHURCHILL COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA
AND
CITY OF ELKO, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA
FOR
COMMUNICATION FACILITY EXCHANGE
THIS INTERLOCAL AGREEMENT FOR COMMUNICATION FACILITY EXCHANGE**

**INTERLOCAL AGREEMENT
BETWEEN
CC COMMUNICATIONS, AN ONGOING OPERATION OF
CHURCHILL COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA
AND
CITY OF ELKO, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA
FOR
COMMUNICATION FACILITY EXCHANGE
THIS INTERLOCAL AGREEMENT FOR COMMUNICATION FACILITY EXCHANGE**

(“Agreement”) entered into as of _____, is made by and between **CC Communications**, an ongoing operation of Churchill County Nevada, a political subdivision of the State of Nevada, (“CC Communications”) and the **City of Elko**, a political subdivision of the State of Nevada (the “City of Elko”). Each of the City of Elko and CC Communications may also be collectively referred to in this Agreement as the “Parties” or, individually, as a “Party.”

WHEREAS, CC Communications is an operation of a political subdivision of the State of Nevada and a telecommunications provider that owns, operates and maintains fiber networks in Nevada; and,

WHEREAS, the City of Elko is a political subdivision of the State of Nevada that owns, operates and maintains fiber networks in the City of Elko, Elko County, Nevada; and

WHEREAS, the Parties’ respective fiber networks, to include fiber, conduit, buffer tubes, together with all pertinent vaults, cabinets, handholds, slack loops, and other fixtures that are necessary for utilization of the fiber and associated equipment (hereinafter the “Communications Facilities”) are affixed to the land and/or buried underground, and constitute real property; and

WHEREAS, pursuant to NRS 277.045, political subdivisions may enter into cooperative agreements for the performance of any government function, including, without limitation, the provision of equipment and property; and

WHEREAS, pursuant to NRS 277.050(2), subject to certain other procedural requirements, the governing body of the agency may exchange to another public agency any real property belonging to it without a vote of the electors of a public agency first being had; and

WHEREAS, the exchange contemplated herein is for a public purpose, specifically, to promote economic development and accessibility to reliable high-speed Internet service by the residents of the City of Elko; and

WHEREAS, pursuant to NRS 277.050(3), an exchange pursuant to NRS 277.050(2) may be (a) negotiated without advertising for public bids; and (b) made for property, but the exchanging public agencies or entities shall, except as otherwise provided in NRS 277.053, convey property worth an amount at least equal to the current appraised value of the real property being conveyed or exchanged; and

WHEREAS, pursuant to NRS 277.05, the governing body of a political subdivision may convey real property to another political subdivision without charge if the property is to be used for a public purpose.

WHEREAS, each Party recognizes the efficiencies realized in exchanging its Communications Facility in support of its own business and public purposes; and

WHEREAS, the exchange of Communications Facilities contemplated herein will effectuate the operations desired by both Parties and will serve the public interest; and

WHEREAS, the Parties desire to exchange Communications Facilities in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions and obligations contained herein, and intending to be legally bound hereby, the Parties hereby agree as follows:

ARTICLE 1: EXCHANGE

1.1 The Parties will perform their respective obligations as set forth in Articles 2 and 3 below in accordance with the terms and conditions of this Agreement.

1.2 The consideration to the City of Elko for its performance of this Agreement is as described in Article 2 and in the above Recitals. The consideration to CC Communications for its performance of this Agreement is as described in Article 3 and in the above Recitals. Both Parties stipulate that the consideration supporting

their respective rights and performance obligations under this Agreement is adequate and sufficient, and consistent with NRS Chapter 277. The Parties agree that each considers the exchanges to be made hereunder even or equivalent exchanges with no other consideration, fees or charges required to be paid by either Party beyond that established in this Agreement with respect to such exchange.

1.3 Each Party will provide the other with the right to use real property for the use and occupancy of the exchanged Communications Facilities along the fiber routes generally described in Articles 2 and 3 below, subject to the terms and conditions of this Agreement.

ARTICLE 2: CC COMMUNICATIONS PROVIDES TO CITY OF ELKO

2.1 CC Communications shall provide the City of Elko with one (1) buffer tube per path of approximately 4.6 miles of fiber along the following defined paths, as shown on the image at **Exhibit A**:

- a. Between the intersection of Idaho/Silver Street and 12th Street.
- b. Between the intersection of Idaho/12th Street and 12th Street/Lamoille Hwy.
- c. On Pinion Road between Lamoille Hwy and NE to the end of current pavement.
- d. Between 12th Street/Lamoille Hwy and Pinion Road.

2.2 Following installation of fiber along the paths defined in Section 2.1, CC Communications shall further place one (1) additional buffer tube containing twelve (12) fibers 1.4 miles in length as a lateral off of the fiber paths shown on **Exhibit A** at a location designated by the City of Elko.

2.3 All transfers of Communications Facilities from CC Communications to the City of Elko will include the right to use and access all pertinent vaults, cabinets, handholds, slack loops, and other equipment and fixtures that are reasonably necessary for utilization of the fiber, which equipment and fixtures, to the extent not real property included in the transfer pursuant to NRS 277.050, are hereby licensed by one Party to the other for the limited purpose of utilizing the real property exchanged hereunder. The foregoing reciprocal licenses of equipment and fixtures shall be subject to the terms and conditions of this Agreement, except where otherwise provided herein.

2.4 Notwithstanding any other provision contained herein, CC Communications shall provide fiber optic service to businesses and residents along the following routes within the City of Elko before providing fiber optic service to any business or resident in Spring Creek, Nevada:

- A.**
 - a. Residential and business customers on either side of Idaho Street on the path shown at **Exhibit A**.
 - b. Residential and business customers on either side of Silver Street on the path shown at **Exhibit A**.
 - c. Residential and business customers on 12th Street on the side of the street where conduit is placed.
 - d. Residential and business customers on Pinion Road on the side of street where conduit is placed.

2.5 CC Communications shall retain the discretion to determine which side of the street to place conduit along 12th Street and Pinion Road.

2.6 CC Communications shall not utilize any City-owned fiber prior to completion of all communication infrastructure identified in Sections 2.1 and 2.2. This restriction does not prohibit CC Communications from connecting to, and testing, the City-owned fiber pursuant to construction.

2.7 The City will designate the 1.4-mile segment referenced in Section 2.2 within three (3) months of executing this Agreement, and CC Communications will thereafter immediately begin permitting and construction of the communications infrastructure in a commercially reasonable manner.

ARTICLE 3: CITY OF ELKO PROVIDES TO CC COMMUNICATIONS

3.1 Concurrent with the Effective Date of this Agreement, the City of Elko shall provide to CC Communications two (2) buffer tubes containing a total of twenty-four (24) pairs of fiber, extending approximately 2.3 miles between the fiber hut located at the Elko Regional Airport, having an approximate location of the following GPS coordinates: 40.826960, -115.785623 shown on **Exhibit B**, and the intersection of Idaho/14th Street, Elko Nevada as more particularly shown at **Exhibit A**.

3.2 All transfers of Communications Facilities from the City of Elko to CC Communications will include the right to use and access all pertinent vaults, cabinets, handholds, slack loops, and other fixtures that are reasonably necessary for utilization of the fiber.

ARTICLE 4: TERM AND TERMINATION

4.1 The term of this Agreement will begin on the Effective Date and terminate at midnight twenty (20) years thereafter (hereinafter the "Initial Term") unless sooner terminated as provided herein. At the expiration of the Initial Term, if this Agreement shall then be in full force and effect and the Parties shall have fully and timely performed all of the terms and conditions herein, then the term shall automatically extend in like manner for a total of (5) five (5) year terms after the Initial Term. Each successive term following the Initial Term shall be referred to as an "Extension Term."

4.2 Upon the final expiration of the Term, the Agreement shall immediately terminate, all ownership interests, licenses and other rights to the control, possession and use of the fiber shall automatically revert to the transferring Party, and no Party shall owe the other Party any further duties, obligations or consideration, save those duties and obligations which expressly survive the termination of this Agreement.

4.3 Either Party may terminate, upon thirty (30) days' written notice, this Agreement if the other Party has violated any material term of this Agreement and the defaulting Party has failed to cure such breach, all as further described and in accordance with the Default and Termination Article below.

ARTICLE 5 MAINTAINENCE, EQUIPMENT, AND TESTING

5.1 To the extent not included in any equipment licenses between the parties as described above, each Party shall be responsible for obtaining its own optical amplifier, regeneration, junction and terminal sites along the fiber path for its own use.

5.2 CC Communications shall provide the City of Elko with access to the fibers described in Article 2 along with collocation space in CC Communication's designated equipment shelter. The City of Elko shall be responsible for the installation any necessary equipment, and all maintenance and repair of such equipment shall be at its sole cost and expense.

5.3 The City of Elko shall provide CC Communications with access to the fibers described in Article 3 along with collocation space in the City of Elko's designated equipment shelter. CC Communications shall be responsible for the installation of any necessary equipment, and all maintenance and repair of such equipment shall be at its sole cost and expense.

5.4 Each party shall operate in good faith in ensuring the proper installation and operation of all fiber paths and necessary facilities. Each Party shall operate in good faith in testing all installed fiber in accordance with Exhibit C.

ARTICLE 6: ASSIGNMENT.

6.1 Neither Party may transfer or assign this Agreement or the Party's duties and obligations contained in this Agreement without the prior written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns, subject to the foregoing restriction on transfers and assignments.

ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Each Party represents and warrants that (a) the undersigned has full authority to enter into this Agreement on its behalf; (b) it has full right and authority, including the enactment of any requisite resolutions, to perform its respective obligations under this Agreement; (c) the execution of this Agreement is not violative of its charter, by-laws or any law, regulation or agreement by which it is bound or to which it is subject; and (d) no litigation or governmental proceeding is pending or threatened in writing which might have a material adverse effect on this Agreement, the transaction contemplated by this Agreement or the rights or obligations of the Parties hereunder.

ARTICLE 8: INDEMNIFICATION

8.1 Each Party shall indemnify, defend and hold harmless the other Party and its respective council members, officials (whether elected or appointed), directors, officers, agents, employees, successors and assigns from and against all Claims brought by any third party in connection with the Indemnifying Party's performance of, or failure to perform, its obligations and duties under this Agreement except for those Claims arising from the negligence or willful misconduct of the Indemnified Party. No Party is obligated to indemnify the other Party for Claims arising from services provided by the other Party if the Claim is premised on (a) violation of any applicable law by End User Customers; (b) damage to property or personal injury (including death) arising out of the acts or omissions of End User Customers; (c) termination or suspension of services by the other Party or the End User Customers; or (d) Claims by a third party, including without limitation End User Customers, arising out of or related to the use or misuse of any service. The term "Claim" or "Claims" shall mean any demand, to include the commencement of an arbitration or civil action, by which a person

seeks to obtain possession or enjoyment of a privilege or thing, to include a demand for money or property. The term "End User Customers" shall mean third-parties who, for consideration, receive data by means of fiber owned or controlled by a Party pursuant to this Agreement.

ARTICLE 9: LIMITATIONS OF LIABILITY

9.1 The Parties hereunder shall not be deemed to be in default where delays or failures to perform are due to any cause without the fault and beyond the reasonable control of the Party, including, to the extent applicable, the following: war; insurrection; strikes; walk-outs; riots; floods; earthquakes; geologic or hydrologic features which could not have been discovered through reasonable diligence prior to the Effective Date; fires; inclement weather, including high winds, which render performance hereunder impossible; acts of God; and governmental restrictions imposed or mandated by governmental entities other than the Parties which could not have been foreseen prior to the Effective Date.

9.2 EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 8 ABOVE AND EXCEPT FOR CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, INCURRED OR SUFFERED BY EITHER PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PARTIES MAKES NO WARRANTY, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE OF THE EQUIPMENT TRANSFERRED, EXCHANGED OR LICENSED PURSUANT TO THIS AGREEMENT AND ANY SUCH WARRANTIES ARE HEREBY EXCLUDED AND DISCLAIMED.

ARTICLE 10: DEFAULT AND TERMINATION

10.1 Any of the following shall constitute an event of default: (a) a Party fails to perform or observe any representation, warranty, covenant, condition or agreement and fails to cure such breach within thirty (30) days after written notice of such breach from the non-breaching Party; (b) any representation or warranty made by a Party hereunder or in any other instrument provided to one Party by the other Party pursuant to this Agreement proves to be incorrect in any material respect when made; (c) a Party commences a bankruptcy or reorganization proceeding, declares itself insolvent, is placed in receivership by a court of competent jurisdiction, or is subject to an assignment for the benefit of that Party's creditors.

10.2 In the event of a default by either Party, the non-defaulting Party shall have the right to exercise any or all of the following remedies to the extent applicable: (a) terminate this Agreement; (b) proceed by court action to enforce specific performance of this Agreement and any remedy provided for herein and/or recover all damages of any default or exercise any other right or remedy available at law or in equity; and (c) disconnect and/or remove the applicable fiber and equipment of the defaulting party and reclaim the exchanged fiber and any other property exchanged or licensed under this Agreement. Upon any such termination, the defaulting Party shall lose the right to use the exchanged fiber and any other property exchanged or licensed under this Agreement. Any such termination shall in no way affect or alter the validity of this Agreement with respect to the rights granted to the non-defaulting Party hereunder and the non-defaulting Party may continue to use the exchanged fiber and avail itself of all other rights it receives pursuant to this Agreement; provided, however, that such non-defaulting Party must pay a use fee to the Provider based on current market value for a lease of similar facilities, subject to negotiation of an appropriate lease that satisfies the requirements of NRS 277.050.

ARTICLE 11: NOTICES

11.1 All notices shall be in writing and shall be delivered by certified mail return receipt requested or by nationally recognized overnight delivery that provides proof of delivery. Any such notice shall be deemed effective on the date of mailing. All notices shall be addressed to the Parties as specified below:

If to CC Communications: CC Communications
50 West Williams Ave
Fallon, NV 89406
Attention: Mark Feest
775-423-7171

If to City of Elko: City of Elko
 1751 College Avenue
 Elko, NV 89801
 Attention: _____
 775-777-7100

ARTICLE 12: GOVERNING LAW

12.1 This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the laws of the State of Nevada, without reference to its conflicts of law principles. Each Party hereby submits to the jurisdiction and venue of the courts in Elko County for purposes of any litigation related to the Agreement and irrevocably waives any defense of an inconvenient forum to the maintenance of any action or proceeding in any such court, any objection to venue with respect to any such action or proceeding and any right of jurisdiction on account of the place of residence or domicile of any Party thereto. Each Party hereby irrevocably and unconditionally waives the right to a jury trial in connection with any Claim arising out of or related to this Agreement.

ARTICLE 13: TAXES AND FRANCHISE, LEASE AND PERMIT FEES

13.1 As used in this Article 9, "Tax" or "Taxes" shall mean any and all taxes, fees, franchise fees, assessments, charges, levies, together with any penalties, fines or interest thereon, imposed by any authority having the power to tax, including any city, county, state or federal governmental or quasi-governmental agency or taxing district.

13.2 Any Tax consequence arising from the transaction described herein shall be the financial responsibility of the Party upon which such incident falls. The Parties agree to file their respective Tax returns on such basis and, except as otherwise required by law, not to take any positions inconsistent therewith. On and after the effective date of this Agreement each party shall be responsible for any and all sales, use, income, gross receipts or other Tax assessed on the basis of revenues received by each Party through use of their fiber; subject to the tax-exempt status of either Party.

ARTICLE 14: MISCELLANEOUS

14.1 Survival. Any and all provisions of this Agreement which, by their nature, would reasonably be expected to be complied with or performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Termination or expiration of this

Agreement shall not affect the rights or obligations of either Party that have arisen before the date of such termination or expiration. Each Party's indemnification and confidentiality obligations shall survive termination or expiration of this Agreement in the manner described herein.

14.2 Relationship of the Parties. Neither party is the agent, employee or legal representative of the other. Each Party has and hereby retains the right to exercise full control of and supervision over the performance of its obligations hereunder and full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations.

14.3 Amendment. No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by duly authorized representatives of each of the Parties.

14.4 Rules of Construction. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement or as amplifying or limiting any of the terms, provisions, or conditions of this Agreement. Words in this Agreement which import the singular connotation shall be interpreted as plural, and words which import the plural connotation shall be interpreted as singular, as the identity of the Parties or objects referred to may require. Any capitalized terms used in this Agreement but not defined herein shall have the meaning defined in the applicable Underlying Agreement. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein.

14.5 Severability. In the event that any term or provision of this Agreement is declared to be illegal, invalid or unconstitutional, then that provision shall be deemed to be deleted from this Agreement and have no force or effect and this Agreement shall thereafter continue in full force and effect, as modified.

14.6 Waiver of Compliance. Failure of either Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a waiver or relinquishment of any such terms or conditions. To the contrary, the same shall remain at all times in full force and effect.

14.7 Joint Work Product. This Agreement is the joint work product of both Parties hereto, accordingly, in the event of ambiguity no presumption shall be imposed against any Party by reason of document preparation.

14.8 Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference as a part of this Agreement.

14.9 Entire Agreement. This Agreement, including any Exhibits, contains the entire agreement between the Parties relating to the rights, duties and obligations granted and assumed herein and supersedes all prior and contemporaneous communications, understandings and agreements with respect to the subject matter hereof, whether written or oral, expressed or implied. No other agreement, statement, promise, or practice between the Parties relating to the Agreement shall be binding upon the Parties.

14.10 Counterparts. This Agreement may be executed in counterparts, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. Electronic signatures shall be treated as originals.

In confirmation of their consent and agreement to the terms and conditions contained in this Agreement and intending to be legally bound hereby, the Parties have executed this Agreement as of the date last written below ("Effective Date").

CC Communications

City of Elko

By: _____

By: _____

Printed Name: _____

REECE KEENER

Title: _____

MAYOR

Dated: _____

Dated: _____

ATTEST: _____
KELLY WOOLDRIDGE
CITY CLERK

EXHIBIT A

Exhibit A

CC Communications and City of Elko Fiber Exchange Agreement

Legend

- CC Comm to City of Elko Fiber Path
- City of Elko to CCC Fiber Path



EXHIBIT B

Exhibit B

Legend

Elko Regional Airport Fiber Hut



Google Earth

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EXHIBIT C

Fiber specifications and acceptance testing

SPECIFICATIONS

The fiber optic cable shall generally be single-armored unless otherwise designated by Provider in its sole discretion.

- Optical Cable with Non-Zero Dispersion Shifted Fiber
- Attenuation at 1550 nm = 0.27 dB/km max
 - Total Dispersion = 2.0 - 6.0 ps/nm-km for 1530 nm to 1565nm
4.5 – 11.2 ps/nm-km for 1565nm to 1625nm

Optical Cable with Single Mode Fiber

- Attenuation at 1310 nm = 0.40 dB/km max
- Attenuation at 1550 nm = 0.30 dB/km max
- Zero Dispersion wavelength = 1300 to 1322nm
- Dispersion slope ≤ 0.092 ps/nm²*km typical

Optical Cable with Negative Dispersion Single Mode Fiber

- Attenuation at 1550 nm = 0.27 dB/km max
- Attenuation at 1310 nm = 0.50 dB/km max
 - Total Dispersion – -10.0 to -1.0 ps/(nm*km) for 1530 nm to 1605nm

ACCEPTANCE TESTING

All splicing and testing shall be performed with industry-accepted equipment. Provider shall perform two stages of testing during construction of a new fiber cable route installed pursuant to this agreement. Industry accepted Optical Time Domain Reflectometer (OTDR) and Optical Power Loss tests shall be performed.

1.1 Splicing Standards are as follows for standard single mode fiber:

After end-to-end (site-to-site) connectivity on the fibers, bi-directional span testing shall be done at both 1550nm and 1310nm. Spans in excess of 60km shall be tested at 1550nm only, 1310nm Testing will be omitted unless specifically requested by the customer. Test results from spans in excess of 60km will have no bearing on route or system acceptance and shall be provided as information only. These measurements must be made after the splice manholes or handholes are closed in order to check for macro-bending problems. Connectors shall be cleaned as necessary to ensure accurate measurements are taken.

Installed loss measurement at 1310nm and 1550nm shall be recorded using an industry-accepted laser source and power meter. Continuity testing shall be done on all fibers concurrently. The overall bi-directional splice loss average (calculated as the sum of splice loss for the span divided by the number of splices) shall not exceed 0.15 dB at 1550nm and/or 0.20dB at 1310nm. No single splice event will exceed 0.3db at 1550nm.

The objective loss value of the connector and its associated splice shall be 0.50dB or less. This value does not include the insertion loss from its connection to the FDP. Connectors shall be Ultra SC-UPC with conventional single mode glass.

The end-to-end loss value as measured with an industry-accepted laser source and power meter should have an attenuation rating of less than or equal to the following:

- (1) At 1310nm: $(0.40 \text{ dB/km} \times \text{km of cable}) + (\text{number of connectors} \times 0.5 \text{ dB}) + (0.20 \text{ dB} \times \text{number of splices})$.
- (2) At 1550nm: $(0.30 \text{ dB/km} \times \text{km of cable}) + (\text{number of connectors} \times 0.5 \text{ dB}) + (0.20 \text{ dB} \times \text{number of splices})$."

1.2 All splices shall be protected with heat shrinks. An industry-accepted non-encapsulated splice enclosure shall be used on all splices (like Alcatel WTC2, PLP Coyote, Lucent 2600, 3M 2178, Tyco 450-D or Windsor.)

1.3 The entire fiber optic system shall be properly protected from foreign voltage and grounded with an industry-accepted system.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of the First Amendment to the Non-Exclusive Franchise Agreement between the City of Elko and Citizens Telecommunication Company of Nevada d/b/a Frontier Communications of Nevada, amending Section 1 of the agreement, granting a Revocable License to pull communications cable in underground conduit owned by the City of Elko located within City Rights-of-Way, and amending Section 5 of the agreement, allowing for a reduction in franchise fees by resolution of the City Council, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **Council has recently approved Non-exclusive Franchise Agreements including a provision granting a Revocable Permit for Occupancy of City owned conduit. Additionally, Council passed Resolution No. 4-20 on February 11, 2020, waiving Franchise Fees for telecommunications carriers beginning July 1, 2020 for a period of five (5) years. Commencing on June 29, 2025, and continuing thereafter, the telecommunication carrier shall pay the Franchise Fee as stipulated in the agreement. The proposed amendment addresses the issues referenced above. SAW**
6. Budget Information:

Appropriation Required: **NA**
Budget amount available: **NA**
Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed First Amendment to the Non-Exclusive Franchise Agreement between the City of Elko and Citizens Telecommunication Company of Nevada d/b/a Frontier Communications of Nevada**
9. Recommended Motion: **Move to approve the First Amendment to the Non-Exclusive Franchise Agreement between the City of Elko and Citizens Telecommunication Company of Nevada d/b/a Frontier Communications of Nevada, amending Section 1 of the agreement, granting a revocable license to pull communications cable in underground conduit owned by the City of Elko located within City Rights-of-Way and amending Section 5 of the agreement, allowing for a reduction in franchise fees by resolution of the City Council.**

Agenda Item VI. A.

10. Prepared By: **Scott A. Wilkinson, City of Elko Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Agenda Distribution: **Charles Born**
Charlie.Born@elkoftir.com

Jack Phillips
Jack.Phillips@elkoftir.com

WASHOE COUNTY TAX RATES BY DISTRICT

2020/2021

BASE RATE FOR ALL WASHOE COUNTY		
STATE OF NEVADA		0.1700
WASHOE COUNTY	1.3747	
COUNTY DEBT SERVICE	0.0170	
GENERAL SCHOOL	0.7500	
SCHOOL DEBT SERVICE	0.3885	
TOTAL COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		2.7002

Reno
Sparks
Truckee Meadows
Tahoe
Washoe County

AREA 1000: CITY OF RENO		
RENO GENERAL	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1001: CITY OF RENO - RENO REDEVELOPMENT AREA I		
CITY OF RENO	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1002: CITY OF RENO - REDEVELOPMENT AREA 2		
CITY OF RENO	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1011: CITY OF RENO - VERDI T.V.		
RENO GENERAL	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
VERDI T.V.		0.0000
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1030: CITY OF RENO - GRAND VIEW TERRACE GID		
CITY OF RENO	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
GRAND VIEW TERRACE GID		0.0000
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1800: CITY OF RENO - LAWTON VERDI GID		
CITY OF RENO	0.9598	
DEBT SERVICE	0.0000	
TOTAL RENO CITY TAX		0.9598
STATE OF NEVADA		0.1700
LAWTON VERDI GID		0.0000
COUNTY / SCHOOL RATE		2.5302
TOTAL COMBINED RATE		3.6600

AREA 1811: CITY OF RENO - VERDI TV DIST, LAWTON VERDI GID			
CITY OF RENO		0.9598	
DEBT SERVICE		0.0000	
	TOTAL RENO CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
LAWTON VERDI GID		0.0000	
VERDI T.V.		0.0000	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 1831: CITY OF RENO - REDEVELOPMENT DISTRICT 2, VERDI TV, LAWTON VERDI GID			
CITY OF RENO		0.9598	
DEBT SERVICE		0.0000	
	TOTAL RENO CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
LAWTON VERDI GID		0.0000	
VERDI T.V.		0.0000	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 2000: CITY OF SPARKS			
SPARKS GENERAL		0.9598	
DEBT SERVICE		0.0000	
	TOTAL SPARKS CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 2001: CITY OF SPARKS - SPARKS REDEVELOPMENT AREA 1			
SPARKS GENERAL		0.9598	
DEBT SERVICE		0.0000	
	TOTAL SPARKS CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 2002: CITY OF SPARKS - SPARKS REDEVELOPMENT AREA 2			
SPARKS GENERAL		0.9598	
DEBT SERVICE		0.0000	
	TOTAL SPARKS CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 2020: CITY OF SPARKS - KILEY RANCH INCREMENT AREA			
SPARKS GENERAL		0.9598	
DEBT SERVICE		0.0000	
	TOTAL SPARKS CITY TAX	0.9598	
STATE OF NEVADA		0.1700	
COUNTY / SCHOOL RATE		2.5302	
TOTAL COMBINED RATE			3.6600

AREA 4000: TRUCKEE MEADOWS F.P.D.	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.2402

AREA 4011: TRUCKEE MEADOWS F.P.D. - VERDI T.V.	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
VERDI T.V.	0.0000
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.2402

AREA 4020: TRUCKEE MEADOWS F.P.D. - SUN VALLEY WATER	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
SUN VALLEY WATER GENERAL	0.2112
SUN VALLEY DEBT SERVICE	0.0000
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.4514

AREA 4030: TRUCKEE MEADOWS F.P.D. - GRANDVIEW TERRACE WATER BOARD GID	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
GRANDVIEW TERRACE WATER BOARD GID	0.0000
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.2402

AREA 4400: TRUCKEE MEADOWS F.P.D. - PALOMINO VALLEY	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
PALOMINO VALLEY G.I.D.	0.4198
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.6600

AREA 4500: TRUCKEE MEADOWS F.P.D. - TAHOE REGIONAL PLANNING AGENCY	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
TAHOE REGIONAL PLANNING AGENCY	0.0000
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.2402

AREA 4811: TRUCKEE MEADOWS F.P.D. - VERDI TV, LAWTON VERDI GID	
STATE OF NEVADA	0.1700
TRUCKEE MEADOW GENERAL	0.5400
LAWTON VERDI GID	0.0000
VERDI T.V.	0.0000
COUNTY / SCHOOL RATE	2.5302
TOTAL COMBINED RATE	3.2402

AREA 5000: NORTH LAKE TAHOE FIRE DISTRICT - TAHOE REGIONAL PLANNING AGENCY		
STATE OF NEVADA	0.1700	
NORTH LAKE TAHOE F.D.	0.6480	
TAHOE REGIONAL PLANNING AGENCY	0.0000	
COUNTY / SCHOOL RATE	2.5302	
TOTAL COMBINED RATE		3.3482

AREA 5200: NORTH LAKE TAHOE FIRE DISTRICT - TAHOE REGIONAL PLANNING AGENCY, INCLINE VILLAGE G.I.D.		
STATE OF NEVADA	0.1700	
NORTH LAKE TAHOE F.D.	0.6480	
INCLINE VILLAGE G.I.D.	0.1311	
TAHOE REGIONAL PLANNING AGENCY	0.0000	
COUNTY / SCHOOL RATE	2.5302	
TOTAL COMBINED RATE		3.4793

AREA 9000: WASHOE COUNTY (RURAL)		
STATE OF NEVADA	0.1700	
COUNTY / SCHOOL RATE	2.5302	
TOTAL COMBINED RATE		2.7002

AREA 9400: WASHOE COUNTY - PALOMINO VALLEY G.I.D.		
STATE OF NEVADA	0.1700	
PALOMINO VALLEY G.I.D.	0.4198	
COUNTY / SCHOOL RATE	2.5302	
TOTAL COMBINED RATE		3.1200

AREA 9601: WASHOE COUNTY - GERLACH G.I.D.		
STATE OF NEVADA	0.1700	
GERLACH G.I.D.	0.2998	
COUNTY / SCHOOL RATE	2.5302	
TOTAL COMBINED RATE		3.0000

**FIRST AMENDMENT TO FRANCHISE AGREEMENT BETWEEN CITIZENS
TELECOMMUNICATIONS COMPANY OF NEVADA d/b/a/ FRONTIER
COMMUNICATIONS OF NEVADA AND THE CITY OF ELKO**

_____, 2020

**FIRST AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE CITY OF
ELKO AND CITIZENS TELECOMMUNICATIONS COMPANY OF NEVADA d/b/a
FRONTIER COMMUNICATIONS OF NEVADA**

THIS FIRST AMENDMENT TO THE FRANCHISE AGREEMENT (hereinafter "First Amendment") is entered into as of the _____ day of _____, 2020 by and between the City of Elko, Nevada, a municipal corporation and political subdivision of the State of Nevada (hereinafter the "City"), and Citizens Telecommunications Company of Nevada d/b/a/ Frontier Communications of Nevada, a Nevada Corporation, together with its permitted successors and assigns, with offices at 9260 East Stockton Boulevard, Elk Grove, CA 95624 (hereinafter the "Grantee").

WITNESSETH:

WHEREAS, on April 29, 2017, the City and Grantee entered into a Franchise Agreement Between Citizens Telecommunications Company of Nevada d/b a Frontier Communications of Nevada and the City of Elko (hereinafter the "Franchise Agreement");

WHEREAS, the Franchise Agreement permits the Grantee to provide telecommunication services ("Telecommunication Services") within the City and in connection therewith to establish a telecommunication services network in, under, along, over, and across present and future rights-of-way and other property of the City, consisting of telecommunication services lines, conduit, fiber, cables, manholes, handholes, and all other necessary appurtenances ("System" or "Telecommunication Services Network");

WHEREAS, the City owns conduit buried underground in rights-of-way that is suitable for the Grantee's fiber optic cable;

WHEREAS, the Grantee desires to pull cable in the City's buried conduit in connection with the establishment and operation of its telecommunication services network without the requirement for additional licenses or permits;

WHEREAS, the City desires to grant a revocable license to the Grantee to pull fiber optic cable in the City's buried conduit so long as there is sufficient capacity;

WHEREAS, the City Council passed Resolution 4-20 on April 11, 2020 waiving the requirement that telecommunications carriers pay compensation to the City for property rights granted pursuant to Elko City Code Section 8-12-25, without regard to whether a telecommunications franchise agreement is then in effect;

WHEREAS, pursuant to Resolution 4-20, commencing on June 30, 2025 and continuing thereafter, every telecommunications carrier providing telecommunications services to any person or area in the City shall pay to the City compensation for the property rights granted by the City to the extent required by a franchise agreement that is then in effect.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the City and the Grantee agree as follows:

1. Section 1 (Grant of Franchise) of the Franchise Agreement shall be amended to read as follows:

1.1 Grant of Franchise and License. The City of Elko, Nevada ("City") hereby grants to Citizens Telecommunications Company of Nevada d/b/a/ Frontier Communications of Nevada, a Nevada Corporation ("Grantee"), together with its successors and assigns, the right and privilege to construct, install, maintain, use, operate, repair and replace its telecommunications facilities, as defined below, upon, over, along across and under the present and future public located within the municipal boundaries of City ("Franchise"), subject to the terms and conditions set forth in this **Franchise Agreement**. These public rights-of-way include, but are not limited to, present and future easements, roads, streets, avenues, alleys, ways, highways, bridges, public utility easements granted by the City and public places within the City ("**Public Right(s)-of-Way**" or "**Public ROW**"). As part of the foregoing franchise, the Grantee is hereby given a revocable license to pull fiber optic cable in underground conduit owned by the City within City rights-of-way, so long as (i) the conduit is not occupied by City-owned fiber and (ii) the conduit is no less than one and one half (1 1/2) inches in diameter, subject to the City's prior approval; provided, the foregoing license shall only be given if the conduit that has sufficient capacity; further provided, the foregoing license is revocable by the City for any reason upon ninety (90) days' prior written notice to the Grantee. Notwithstanding any other provision contained herein, the revocable permit given hereby shall be automatically revoked if the Grantee fails to provide telecommunications services to at least one person or area in the City within ninety (90) days of installation of the fiber in the City-owned conduit

2. Section 5 (Franchise Fee) of the Franchise Agreement shall be amended to read as follows:

5.1.1 For the **Term** of the Agreement, a sum equal to two percent (2%) of the Grantee's gross revenue from the provision of **Telecommunication Services** by the Grantee within the boundary of City as shown by Grantee's billing records.

Notwithstanding any other provision contained in this Section 5.1.1, the City Council may, by resolution, reduce the compensation to be paid for the franchise to an amount less than stated in this agreement for a set period of time, upon the expiration of which the compensation shall return to the amount stated herein.

3. Except as modified by this First Amendment, the Franchise Agreement shall remain in full force and effect, and the Franchise Agreement, as modified by this First Amendment, is hereby ratified and confirmed by the parties. In the event of a conflict between the terms of this First Amendment and the terms of the Franchise Agreement, the terms of this First Amendment shall control. Defined terms used in this First Amendment which are not defined herein shall have the meanings set forth in the Franchise Agreement. This instrument may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

CITY OF ELKO:

By:

**REECE KEENER
MAYOR**

ATTEST:

By:

**KELLY WOOLDRIDGE
CITY CLERK**

GRANTEE:

CITIZENS COMMUNICATIONS

By:



Its: Director, Government & External Affairs

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a corrected lease between the City of Elko and ESM2, LLC, for the lease of approximately 8.69 acres of City owned property located generally north of West Idaho and west of the Airport, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **Council adopted Resolution No. 15-20, accepting the appraised lease value at its meeting on July 28, 2020, and conducted a public auction for the referenced property on August 25, 2020. At the July 28, 2020, meeting there was considerable discussion concerning the lack of access to the property and public comment requesting a draft lease agreement to be provided. There was comment by City Officials that the lease must address the access issue. To ensure that all potential interested parties would be bidding on equal terms, a draft lease agreement was presented in the Council agenda packet for the public auction process. That draft lease agreement is what the successful bidder bid upon. The draft lease agreement contained some typographical errors and did not contain two of the referenced Exhibits. The typographical errors have been corrected and the Exhibits have been included in the lease agreement. The successful bidder has requested other significant and substantive revisions to the agreement that Staff, based on legal advice, believes would violate NRS 268.062, because substantive revisions would constitute post-bid negotiation prohibited by the law of competitive bidding. For that reason, the presented agreement does not include the revisions requested by the successful bidder. SAW**
6. Budget Information:

Appropriation Required: **NA**
Budget amount available: **NA**
Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed Lease Agreement, July 28, 2020 City Council minutes, August 25, 2020 City Council Minutes, email from ESM2, LLC dated August 21, 2020 to City Staff (predated the August 25 public auction meeting), email from City Staff to ESM2, LLC dated October 6, 2020.**

Agenda Item VI. B.

9. Recommended Motion: **Move to approve the corrected lease between the City of Elko and ESM2, LLC, for the lease of approximately 8.69 acres of City owned property located generally north of West Idaho and west of the Airport.**
10. Prepared By: **Scott A. Wilkinson, City of Elko Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Agenda Distribution: **Pamela Lattin**
p.lattin@canonconstructionco.com

LEASE AGREEMENT
(Parking, Equipment and Materials Storage Yard)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 20__ (the "Effective Date") by and between the CITY OF ELKO, a special charter municipal corporation and political subdivision of the State of Nevada, hereinafter referred to as "Lessor," and ESM2, LLC, hereinafter referred to as "Lessee."

W I T N E S S E T H :

That for and in consideration of the rents, covenants and agreements herein contained, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the herein-described property located on West Idaho Street in the Elko County, Nevada, upon the terms and conditions described hereinafter.

SECTION 1
PROPERTY

1.01 Description. Lessor does hereby lease to Lessee, and the Lessee does hereby lease from Lessor, that certain parcel of land situate, lying and being on West Idaho Street, Elko County, State of Nevada (APN 006-09G-027), consisting of 8.69 acres, more or less, and which parcel (hereinafter "Leased Premises") is more particularly described on **Exhibit A** attached hereto and shown on the map as **Exhibit B**, which are made a part hereof by this reference.

SECTION 2
TERM OF LEASE

2.01 Term. This Lease Agreement shall begin _____, 2020 and continue for a period of ten (10) years thereafter, ending at midnight on _____, 202__ (hereinafter the "Initial Term"), unless sooner terminated as in this Lease Agreement provided.

2.02 Option to Extend. At the expiration of the Initial Term, if this Lease shall then be in full force and effect and the Lessee shall have fully and timely performed all of the terms and conditions, the Lessee shall have the option to extend this Lease for five (5) additional years subject to the same terms and conditions. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of the Initial Term, and if the Lessor does not receive written notice of the exercise of this option on or before such date, this option shall terminate on that date, time being of the

essence. The Initial Term and any extension thereto are collectively referred to herein as the "Term."

SECTION 3

RENT

3.01 Annual Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises for the sum of \$ 19,000.00 per year.

3.02 Initial and Monthly Payment of Rent. Upon execution of this Lease, Lessee agrees to pay to Lessor as rent for the premises an initial prorated sum of \$ _____ for the corresponding fraction of the first month of the Lease and equal payments of \$1583.33 per month with the final payment adjusted for all amounts due as set forth in Section 3.01 thereafter, subject to annual increases as set forth in Section 3.03, below, payable on the first day of each and every month during the Term.

3.03 Annual Rent Increases. During the Term, the rental amount shall be increased annually on each anniversary of the Effective Date by two percent (2%) over the rental amount in effect in the month immediately preceding such anniversary date.

SECTION 4

USE OF LEASED PREMISES

4.01 Uses Prohibited. It is agreed between Lessor and Lessee that the Lessee shall use the Leased Premises only for parking, including parking associated with park and ride activities and the storage of equipment and materials typically used in the construction trade and no other use shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 5

LESSEE'S RESPONSIBILITIES

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards applicable to parking, including parking associated with park and ride activities and the storage of equipment and materials. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

5.02 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of its property on the Leased Premises. The City of Elko shall have

no liability for the theft or loss of or damage to the Lessee's property, and as a material consideration for this Lease, the City of Elko, and its officers, supervisors, agents and employees are hereby released and discharged from all claims, demands and liability therefor.

5.03 Access. Lessee shall be responsible for access to and from the Leased Premises, , and Lessor shall have no responsibility therefor. Lessee acknowledges that as of the Effective Date, the Nevada Department of Transportation (NDOT) does not permit access from State Route 535 (West Idaho Street) to the Leased Premises. Lessee is solely responsible for obtaining permission from NDOT to access the Leased Premises and for complying with all conditions of such access if permission is granted by NDOT. Lessor does not represent that NDOT will permit access to the Leased Premises from State Route 535 (West Idaho Street) and the failure of Lessee to obtain such access will not relieve Lessee of its obligations under this Lease. Lessor agrees to cooperate with Lessee, in Lessee's efforts to obtain access to State Route 535 (West Idaho Street). Such cooperation is restricted to minimal administrative duties such as, but not limited to accepting an access permit from NDOT as the property owner. Such cooperation excludes any activities including but not limited to, legal fees, cost of improvements required by NDOT for granting access and the cost of maintaining any access improvements required by NDOT.

SECTION 6

REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

6.01 Lessee to Remove Personal Property. In the event of the termination of this Lease, Lessee shall have a reasonable time (but in any event no less than thirty (30) days) to remove from the Leased Premises all personal property owned by Lessee.

SECTION 7

INDEMNIFICATION AND HOLD HARMLESS

7.01 Indemnification of City. The Lessee does hereby covenant and agree to defend, indemnify and save harmless the City of Elko, its officers, supervisors, employees and agents from all fines, suits, claims, demands, expenses, fees, liabilities, defenses and actions of any kind and nature by reason of any and all of the Lessee's operations hereunder and any and all negligence, acts and omissions of the Lessee's and their agents, employees, officers and directors and do hereby agree to assume all the risk and liability of the operation of their business hereunder.

SECTION 8

CONDUCT BY LESSEE

8.01 Compliance with Applicable Laws. Lessee shall conduct and handle the Leased Premises in a lawful and orderly manner and shall comply with all city, county, state and federal laws, rules, regulations, ordinances and codes, as well as administrative rules and regulations governing the use of property and conduct of operations at Elko Regional Airport. A copy of the Elko Regional Airport Rules and Regulations is attached hereto as **Exhibit C**.

SECTION 9

WASTE

9.01 No Waste Permitted. Lessee will not commit or permit to be committed any waste upon the Leased Premises.

SECTION 10

(INTENTIONALLY OMITTED)

SECTION 11

DEFAULT AND TERMINATION

11.01 Termination of Lease Upon Default. In the event that the rent herein provided for, in any part or portion thereof shall be in arrears or shall be unpaid on the date when the same is provided to be paid, and for ten (10) days thereafter, it shall be and may be lawful for the City of Elko, its agents or legal representatives to go to and upon the Leased Premises, and to again repossess itself thereof, and to hold and enjoy the Leased Premises without let or hindrance by Lessee, anything herein to the contrary notwithstanding. Such repossession of the Leased Premises by the City of Elko shall constitute a termination of this Lease.

11.02 Breach. In the event of default of any of the payments herein provided for, or any breach of any one or all of the clauses, covenants and agreements contained in this Lease, City of Elko shall have the right and option of declaring all monies at once due and payable and repossess itself of the Leased Premises without suit, either at law or in equity.

SECTION 12

QUIET POSSESSION

12.01 Lessee's Right to Occupy. The Lessee, upon making the payments herein provided for and in the manner provided, and complying with each, every and all of the terms, clauses and covenants of this Lease, shall have the sole right and option of

occupying the Leased Premises under the terms of this Lease during the full term herein provided, without any let or hindrance by said Lessor.

SECTION 13

IMPROVEMENTS

13.01 Improvements Prohibited. Lessee shall not place any structures on or make improvements to the Leased Premises without the prior written consent of Lessor.

SECTION 14

AIRPORT MASTER PLAN

14.01 Termination of Lease. The Lessee understands that the Lessor has a master plan at the airport, that the master plan is subject to amendment, and that changes to the matters set forth in this lease may become necessary as a result. Lessee, accordingly, covenants and agrees, notwithstanding any provisions of this Lease to the contrary, that the Lessor may terminate this Lease at any time during the term of this Lease, or any renewable extension thereof, by written notice mailed or delivered to Lessee as provided in Section 19.04 hereof, and upon any such termination, the Lessee shall within thirty (30) days from the date of such notice of termination, vacate the Leased Premises, surrender this Lease in the premises, and remove from the Leased Premises all of Lessee's property.

SECTION 15

ASSIGNMENT

15.01 No Assignment. This Lease shall not be assigned, nor shall any or all of the Leased Premises be relet or sublet by the Lessee without the written consent of the Lessor first had and obtained.

SECTION 16

LIENS / ENCUMBRANCES

16.01 Status of Lease. The Lessee shall not allow any encumbrances, liens or processes of law to attach against the Leased Premises, or Lessor's interest therein. Any attempted legal process levied against the Leased Premises, or Lessor's interest therein, if attempted in good faith, shall result in a complete termination of this Lease and a termination of Lessee's right in and to this Lease and the Leased Premises, subject to the right of Lessee to cause a discharge of any lien within sixty (60) days after filing or levy thereof, and in the event of such discharge, this Lease shall continue in full force and effect.

SECTION 17
(INTENTIONALLY OMITTED)

SECTION 18
INSPECTION

18.01 Lessor's Right to Inspect. Lessor reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this Lease.

SECTION 19
ADDITIONAL TERMS

19.01 FAA Requirements. Lessee shall comply with all terms and conditions required by the FAA Safety/Compliance Inspector as set forth on **Exhibit D** attached hereto.

19.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease shall immediately terminate without further notice and any personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 19.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for parking associated with park and ride activities and the storage of equipment and materials for a period of ninety (90) days.

19.03 Waiver. No waiver by the Lessor or default, violation of or non-performance of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default, violations or non-performance. The acceptance of rental or the performance of all or any part of this Lease Agreement by Lessor for or during any period or periods of default, violation or non-performance of any of these terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of the Lessor to cancel this Lease Agreement for failure of Lessee to so perform, keep or observe any of the items, covenants or conditions hereof.

19.04 Notices. All notices sent to the parties under this Lease shall be addressed as follows:

CITY OF ELKO: Elko Regional Airport Manager

City of Elko
1751 College Avenue
Elko, NV 89801

LESSEE:

19.05 Attorney Fees. In any dispute between the parties hereto resulting in legal action, the prevailing party shall be entitled to reasonable attorney fees and court costs.

19.06 Binding Effect. This Lease shall be binding upon and inure to the benefit of the Lessor, its successors and assigns, and upon the Lessee, their heirs, successors and assigns, subject to the restrictions against subletting and assignments.

19.07 Time. Time is of the essence of this Lease. In the event that any date specified in this Lease falls on Saturday, Sunday or a public holiday, such date shall be deemed to be the succeeding day on which the public agencies and major banks are open for business.

19.08 Governing Law. The validity, construction and enforceability of this Lease shall be governed in all respects by the law of Nevada applicable to agreements negotiated, executed and performed in Nevada by Nevada residents, whether one or more of the parties shall now be or hereafter become a resident of another state. Any disputes arising hereunder shall be resolved in the Fourth Judicial District Court in and for the County of Elko, State of Nevada.

19.09 Captions. The captions of this Lease do not in any way limit or amplify the terms and provisions of this Lease.

19.10 Severability. Each provision of this Lease is severable from any and all other provisions of this Lease. Should any provision(s) of this Lease be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the day and year first above written.

LESSOR:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

ATTEST:

Kelly Wooldridge, City Clerk

LESSEE:

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION

A.P.N. 006-09G-027

All those certain lots, pieces, or parcels of land situate in the County of Elko, State of Nevada, more particularly described as follows:

A Tract of land in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T. 34N., R.55E., MDB&M., more particularly described as follows:

Beginning at Corner No. 1 from which the $\frac{1}{4}$ corner of Sections 19 and 20, T.34N., R.55E., bears S.0°15'20" E., 57.08 feet;

Thence S. 58°21'W., 667.12 feet to Corner No. 2;

Thence S.27°18'E., 1425.25 feet to Corner No. 3;

Thence N.53°46'E., 39.55 feet to Corner No. 4;

Thence N.27°18'W., 243.19 feet to Corner No. 5, also a point in the section line between Sections 19 and 20;

Thence N.0°15'20"W., 1377.08 feet along said sections line to Corner No. 1, the place of beginning.

EXCEPTING THEREFROM that portion deeded to the STATE OF NEVADA described as follows:

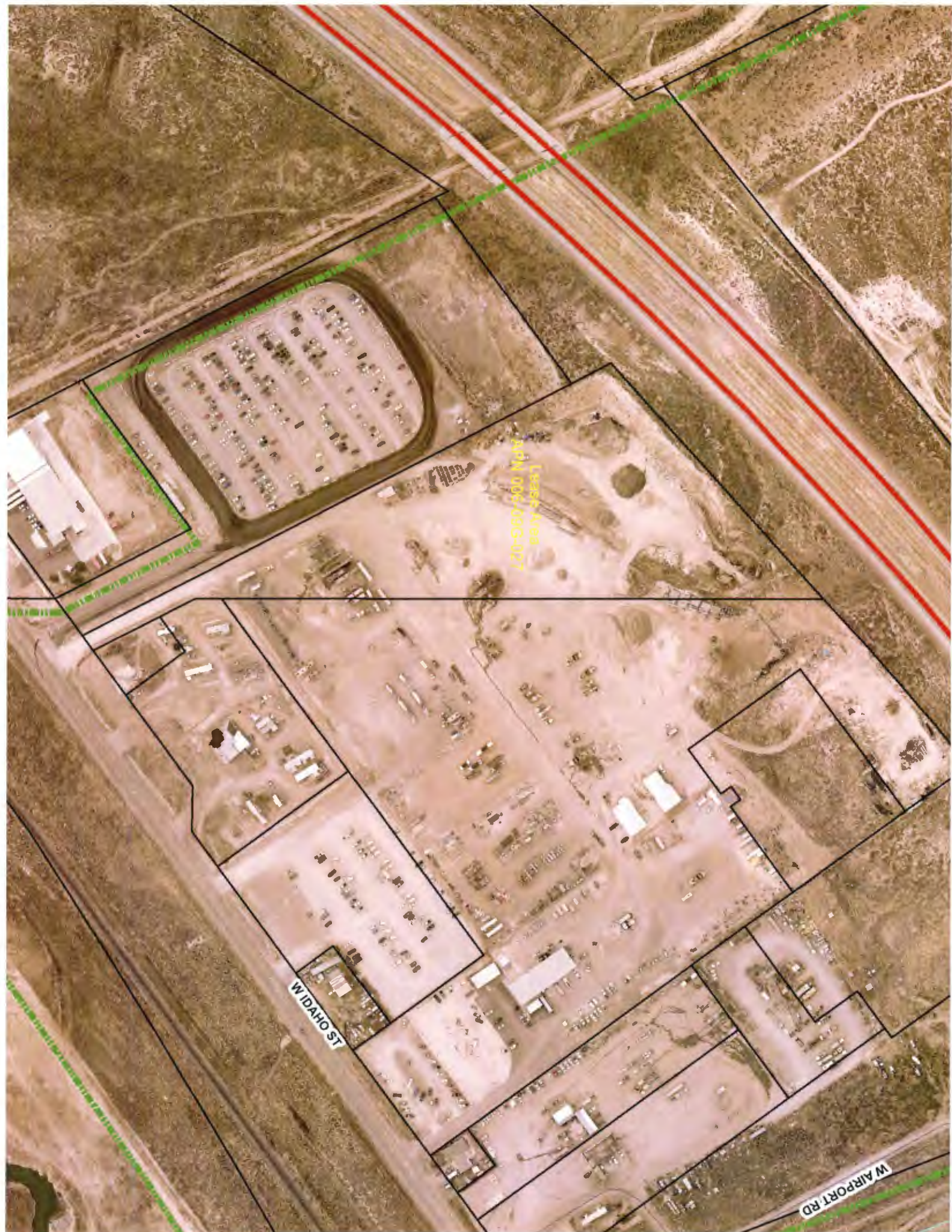
Beginning at a point 150.00 feet right of and measured radially from the East bound centerline of Nevada Interstate Route 80 (S.R.-1), Project I-080-4 (11) 277, at Highway Engineer's Station "DE" 642 + 13.81 P.O.C., and being further described as bearing S.50°23'30W., a distance of 653.50 feet from the East $\frac{1}{4}$ corner of Section 19, T.34N., R.55E., MDB&M.

Thence N.27°12'29"W., along the Western boundary of the LOUIS CLARKSON property as recorded in Book 63 of Deeds, Page 99, Elko County, Nevada, on April 4, 1953, a distance of 138.71 feet to the Northwest corner of said LOUIS CLARKSON property;

Thence N. 58°17'10"E., along the Northern boundary of said LOUIS CLARKSON property, a distance of 666.48 feet to the Northeast corner of LOUIS CLARKSON;

Thence S. $46^{\circ}44'54\text{W}$, along the right or Southern highway right of way line of Nevada
Interstate Route 80 (S.R. -1), a distance of 691.34 feet to the point of beginning.

EXHIBIT B



Lease Area
APN 006-0913-027
209-5180-900

WIDAHO ST

W AIRPORT RD

EXHIBIT C

RULES AND REGULATIONS

CHAPTER I **GENERAL PROVISIONS**

SECTION 1. Definitions

As used in these Rules and Regulations, unless the text otherwise requires:

1. Airport means the Elko Regional Airport and all of the area, building facilities, and improvements within the exterior boundaries of such airport as it now exists or as it may hereafter be extended or enlarged.

2. Airport Director means the person hired by the City, whose job duties are outlined in Section 2.

3. Council means the Elko City Council of the City of Elko, Nevada.

4. City means the City of Elko, Elko County, Nevada.

5. F.A.A. means the Federal Aviation Administration.

6. Person means any individual, firm, partnership, corporation, company, association, joint-stock association or body politic, and includes any trustee, receiver assignee or other similar representative thereof.

7. Advisory Board means the Elko Regional Airport Advisory Board established by the Elko City Council.

SECTION 2. Airport Director

The Airport Director shall be hired by the City. He shall report to the City Manager. The Airport Director's duties include, but are not limited to:

1. Develop and implement policies and procedures related to airport operations, safety and maintenance, drafts and revises airport policy and procedure manuals regarding emergency procedures, minimum safety standards and operating procedures in accordance with FAA operation rules.

2. Coordinates the development and negotiation of airport leases, contracts and agreements, including those with private companies, commercial air carriers and government agencies for the rental of airport facilities including hangars, building space, airport service and concessions.

3. Initiates the FAA grant priorities and monitors the major construction resulting from those grant projects. Plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment and infrastructure of the airport, including airport development and improvement projects.

4. Supervises and monitors use of the airport facilities by tenants, concessionaires and patrons, including ground operations, passenger and baggage screening, emergency operations, maintenance and related activities. Supervises grounds and facilities maintenance, coordination of improvements or changes to facilities or equipment. Inspects airport grounds, facilities and equipment, and notes maintenance needs, safety hazards and other problems, initiates corrective action and follows-up as necessary.

5. Interprets flight safety and other flight and airport use regulations for the public, enforces airport regulations and assures compliance with a variety of local, State, and Federal laws and regulations related to airport operations.

6. Assesses a variety of emergency situations requiring airport closure or altered operations, such as snow-plowing, ice removal or other extreme weather conditions, bomb threats, fire, crashes or other emergencies, coordinates fire, crash and rescue procedures.

SECTION 3. Rules and Regulations

All aeronautical activities at the airport, all operation and flying of aircraft at the airport, and all business and other activities on the airport shall be conducted in conformity with these rules and regulations, and all amendments, supplements, attachments, changes, and additions hereto which may hereafter be adopted by the City Council, and further in conformity with all pertinent rules, regulations, orders and rulings of the F.A.A., which are made a part of these rules by this reference. Provided, however, that nothing herein contained shall affect or impair any existing agreement. In the event of any conflict between these rules and regulations and any law, rule, regulation or order of the F.A.A. or other governmental agency exercising the same or similar jurisdiction, the latter shall prevail.

SECTION 4. Special Events

Special events, such as air shows, air races, fly-ins, sky diving and all events requiring the general use of the airport, other than normal or routine airport traffic, shall be held only upon the prior approval of the Airport Director, and on such dates, in such areas and upon such terms and conditions as shall be specified by the Airport Director.

SECTION 5. Public Use

The airport shall be open for public use at all hours of the day, subject to regulation or restriction due to conditions of the landing area, the presentation of special events and like causes, as may be determined by the Airport Director and revocation of the right to use for violation of these rules and regulations as herein provided.

SECTION 6. Common Use Area

All runways for landing and take-off, all, all runway markers, guidance, signal, and beacon light used to guide operating aircraft, and wind information, for signaling, for radio-direction finding, or for any other structure, equipment or mechanism having a similar purpose for guiding or controlling flight in the air or landing and take-off of aircraft, and together with such aprons, ramps, turn-offs, taxiways, tie down areas and other areas of the airport as the airport director shall specify or designate as common use areas available for use, in common, by all persons flying or operating aircraft on the airport and shall be kept clear and available for aircraft traffic. No person or entity shall use any common use area for the parking or storing of inoperative aircraft, the repair, servicing, or fueling of aircraft or for any other purpose other than the flying and operation of aircraft without the prior consent and authorization of the Airport Director. Common use areas shall be subject to change by the Airport Director.

SECTION 7. Vehicular Traffic

The traffic laws of the City shall apply to the streets, roads, and parking areas on the airport, unless restricted by the Airport Director. Vehicular access to aircraft in the General Aviation area is permitted for the purpose of loading and unloading only. Except for firefighting equipment, ambulances, emergency vehicles, and aircraft maintenance vehicles, no person shall take or drive any vehicle on the airport, other than on established streets, roads and automobile parking facilities, unless permission has been first obtained from the Airport Director.

SECTION 8. Advertising

No signs or other advertising shall be placed on constructed upon the airport without the prior approval of the Airport Director. Any building, structure or improvement must also

obtain prior approval of the Airport Director.

SECTION 9. Acceptance of Rules By Use

The use of the airport or any of its facilities in any manner shall constitute an assumption by the user of these rules and regulations and shall create an obligation on the part of the user to abide by and obey these rules and regulations.

SECTION 10. Operators to Keep Rules Available

All persons licensed to do business on or conduct operations of any kind on the airport shall keep a current copy of these rules and regulations in its office or place of business and make it available to all persons.

CHAPTER II

AIRPORT OPERATIONS AND AIRPORT TRAFFIC

SECTION 1. General

1. Every person operating an aircraft shall comply with and operate such aircraft in conformity with these Rules and Regulations, and all pertinent rules, regulations, or orders of the FAA.

2. The taxing, traffic, and landing rules will be managed by the Elko Regional Airport Control Tower, if operating.

3. In the event any aircraft is wrecked or damaged to the extent that it cannot be moved under its own power, the Airport Director shall be immediately notified by the pilot. Subject to governmental investigations and inspection of the wreckage, the owner or pilot of the wrecked or damaged aircraft, must obtain the necessary permission for the removal of the aircraft and shall promptly remove such aircraft and debris from all landing areas, taxiways, ramps, tie-downs areas, and all other traffic areas. The owner or pilot must place or store the aircraft in an area designated by the Airport Director. In the event the owner of the aircraft fails for any reason to comply with this regulation, the Airport Director may cause the removal and storage, or disposal of such wrecked or damaged aircraft at the expense of the aircraft owner.

SECTION 2. Ground Rules

1. No person shall park, store, tie-down, or leave any aircraft on any area of the airport other than that designated by the Airport Director, or his duly authorized agent.

2. No aircraft shall be parked or stored at the Elko Regional Airport unless it is

properly tied down and secured in place. It shall be the sole responsibility of the aircraft owner or pilot to tie down or secure said aircraft at all times required by these rules and regulations or as requested by the Airport Director. Owners of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner or pilot of such aircraft to comply with this rule.

3. No person shall take or use any aircraft anchoring or tie-down facilities when said facilities are already in use by another person.

4. All repairs to aircraft or engines shall be made in the spaces or areas designated for this purpose by the Airport Director and not on any part of the landing area, taxiways, ramps, fueling, or service areas of a fixed base operator, unless mutually agreed upon by the fixed base operator and the Airport Director. Prior approval for minor repairs to aircraft located on parking areas may be obtained from the Airport Director.

5. No aircraft engine shall be started on an aircraft unless a competent operator is in control of the aircraft and the parking brakes have been set or the wheels have been set with blocks that are equipped with ropes or other suitable means for removing said blocks.

6. No aircraft engine shall be started, run, or run-up, unless the aircraft is in such a position that the propeller or jet blast clears all hangars, shops, or other buildings, persons, other aircraft, vehicles, and the flight and taxi path of other aircraft.

SECTION 3. Fire Regulations

1. No aircraft shall be fueled or drained while the engine is running, or while in a hangar or other enclosed area. Fueling shall be done in such a manner and with such equipment that adequate connections for bonding for static electricity shall be continuously maintained during fueling operations.

2. All persons using, in any way, the airport area or the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property.

3. No person shall smoke or ignite any matches, flares, lighters, or other objects of which produce an open flame anywhere within a hangar, shop, building or flammable structure in which any aircraft is or may be stored, or in which any gas, oil or flammable substance is stored or within 50 feet of any aircraft or any fueling facilities.

CHAPTER III

AIRPORT OPERATORS, LEASES, AND CONCESSIONS

SECTION 1. Business Activities.

Subject to applicable orders, certificates or permits of the Federal Aviation Administration, or its successors, no person shall use the airport, or any portion thereof, or any of its improvements or facilities for revenue producing commercial, business, or aeronautical activities, who has not first complied with these rules and regulations and obtained the consent and all appropriate permits and licenses for such activities from the City Council and entered into such written leases and other agreements prescribed by the City Council, or agreed upon by the City Council and such person or business entity.

SECTION 2. Application.

Applications for leases of ground on the airport, or for permission to carry on any commercial, business or aeronautical activity on the airport, with the necessary permits and licenses, shall be made to the Airport Director. This includes, but is not limited to Request for Proposals. The Airport Director shall present the application to the City Council by at least its next regular meeting. The City Council may, if it deems it advisable, have a public hearing upon the application. The applicant shall submit all information and material necessary, or requested by the RFP or the City Council, to establish to the satisfaction of the City Council that the applicant can qualify and will comply with these rules and regulations. The application shall be signed and submitted by every party owning an interest in the business, those who will be managing the business, every partner of a partnership, and each Director, and officer of a corporation.

SECTION 3. Action on Application.

The City Council may deny any application if, in its opinion, it finds any one or more of the following:

1. The applicant, for any reason, does not meet the qualifications, standards and requirements established by these rules and regulations; or
2. The applicants proposed operations or construction will create a safety hazard on the airport; or
3. The granting of the application will require the City to spend City funds, or to supply labor or materials in connection with the proposed operations to an extent which or at a time the City Council is unwilling to enter into such arrangement; or the operation will result in a financial loss to the City: or

4. There is no appropriate, adequate or available space or building on the airport to accommodate the entire activity of the applicant at the time of the application; or

5. The proposed operation or airport development or construction does not comply with the master plan of the airport; or

6. The development or use of the area requested by the applicant will result in depriving existing fixed base operators of portions of the area in which they are operating; or will result in a congestion of aircraft or buildings; or will result in unduly interfering with the operations of any present fixed base operator on the airport through problems in connection with aircraft traffic or service, or preventing free access to the fixed base operators area; or

7. Any party applying or interested in the business has supplied the City Council with any false information or has misrepresented any material fact in his application or in supporting documents; or has failed to make full disclosure on his application; or in supporting documents; or

8. Any party applying, or interested in the business has a record of violating these rules and regulations, or the rules and regulations of any other airport, or the Federal Aviation Regulations, or any other rules and regulations applicable to the Elko Regional Airport.

9. Any party applying, or interested in the business has defaulted in the performance of any lease or other agreement with the City of Elko, or

10. Any party applying, or interested in the business has a credit report which contain derogatory information and does not appear to be a person of satisfactory business responsibility and reputation; or

11. The applicant does not appear to have, or have access to the finances necessary to conduct the proposed operation for a minimum of six months; or

12. Any party applying, or interested in the business has been convicted of any crime or violation of any City ordinance of such a nature that it indicates to the City Council that the applicant would not be a desirable operator on the Elko Regional Airport;

13. The protection of the health, welfare, or safety of the inhabitants of the City of Elko requires such denial.

14. Nothing contained herein shall be construed to prohibit the City Council from

granting or denying, for any reason it deems sufficient, an application to do business on the airport for the purpose of selling, furnishing or establishing non-aviation products and supplies or any service or business of a non-aeronautical nature, or the application by a person for an area on the airport for the personal non-profit use of such person.

SECTION 4. Supporting Documents

If requested by the City Council, the applicant shall submit the supporting documents itemized in an Appendix (if applicable) to the City Council, together with such other documents and information as may be requested by the City Council.

SECTION 5. Airport License and Leases Non-Transferable

No right, privilege, permit or license to do business on the Elko Regional Airport, or any lease of any area of the airport shall be assigned, sold, or otherwise transferred or conveyed in whole or part without the prior express consent of the City Council.

SECTION 6. Tie-down Rates

Daily and Monthly tie down rates shall be administered by the Airport Director.

SECTION 7. Refuse

No person shall throw, dump, or deposit any waste, refuse or garbage on the Elko Regional Airport. All waste, refuse, or garbage shall be placed and kept in closed garbage cans or containers and all operating areas shall be kept in a safe, neat, clean, and orderly manner at all times, and in such a manner as to minimize any hazards.

SECTION 8. Approval of Construction

No buildings, structures, tie-downs, ramps, paving, taxi areas, or any other improvement or addition on the airport shall be placed or constructed on the airport or altered or removed without the prior approval of the City Council *and/or Airport Director*. In the event of any construction, the City Council may, in its discretion, require the appropriate bond to guarantee the completion of the construction in accordance with City Council approval.

SECTION 9. Operation Area.

No person authorized to operate on or conduct business activities on the airport shall conduct any of its business or activities on any area except those specified by the City

Council, or the Airport Director, and the leased areas.

SECTION 10. Fixed Base Operator

No person shall use the Elko Regional Airport as a fixed base operator until such person has applied for and received from the City Council a fixed base operator's license and has met the qualifications, standards and requirements of these rules and regulations. These standards, requirements, rules and regulations pertaining to FBOs, and a list of the services of a fixed base operator is contained in the Elko Regional Airport's Minimum Standard Requirements for Airport Aeronautical Services.

SECTION 11. Waiver of Chapter III

The City Council may in its discretion, waive all or any of Chapter III, or the requirements listed in the Appendix (if applicable), for the benefit of any Government or Government Agency or Department or person performing non-profit public services to the aircraft industry, or performing air search and rescue operations, or performing fire prevention or firefighting operations.

SECTION 12. Business Name

No person shall conduct business operations on the airport under a business name the same as or deceptively similar to the business name of any other fixed base operator.

SECTION 13. Damage Repair by The City

Nothing contained in these rules and regulations shall be construed as requiring the City to maintain, repair, restore or replace any structure, improvement or facility which is substantially damaged or destroyed due an act of God or other condition or circumstance beyond the control of the City.

CHAPTER IV **PENALTIES**

SECTION 1. General

In addition to any penalties otherwise provided by City Ordinance, law, the F.A.A., or other governmental agency, any person violating or failing or refusing to comply with these rules and regulations or those issued by the Airport Director may be promptly removed or ejected from the airport by or under the authority of the Airport Director. Upon the order of the City Council or Airport Director, such person may be deprived of further use of the airport

and its facilities pending appeal or presentation of the matter to the City Council.

SECTION 2. Appeals

Such matters shall be presented to the City Council as expeditiously as practicable. By request of the City Council, the accused violator will be asked to show cause for reinstatement of airport use.

SECTION 3. Enforcement

In addition to any civil or criminal penalties, upon order of the City Council, such person may be deprived of further use of the airport and its facilities for such time as may be deemed necessary and appropriate by the City Council to insure the safeguarding of the airport, its operations, the public use thereof and the City's interest therein.

CHAPTER V

GOVERNMENT AGREEMENTS

SECTION 1. War or National Emergency

During time of war or national emergency the City shall have the right to lease the airport, or the landing areas, or any part thereof to the United States Government for military use, and any license or authority granted under these rules and any lease and agreement executed pursuant hereto shall be subject to such government lease and the provision of the government lease.

EXHIBIT D

Additional Terms Required
by FAA Safety/Compliance Inspector

1. The Lessee, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in the attached Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

2. The Lessee, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Lessee shall furnish its accommodations and/or services on a fair, equal and no unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the Lessor shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States. Either or both said governments shall have the right to judicially enforce such provisions.

6. Lessee agrees that it shall insert the above five provisions in any Lease agreement, contract, etc. by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

7. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. The Lessee assures that it will require that its covered sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR 152, Subpart E, to the same effort.

8. The Lessor reserves the right to further develop or improve the landing area of the Elko Regional Airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

9. The Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Elko Regional Airport and all publicly-owned facilities of the Elko Regional Airport, together with the right to direct and control all activities of the Lessee in this regard.

10. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the development, operation or maintenance of the Elko Regional Airport.

11. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or

operation on the Elko Regional Airport.

12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

13. The Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation of 5,075 feet. In the event the aforesaid covenants are breached, the Lessor reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

14. The Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from, or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of or the exclusive or non-exclusive use of the Elko Regional Airport by the United States during the time of war or national emergency.

property at public auction pursuant to City Code Section 8-1-3 and NRS 268.062, and matters related thereto. **FOR POSSIBLE ACTION**

Two adjacent neighbors petitioned the City of Elko to sell a city owned parcel formerly known as Well 16 parcel. Council accepted the petition and authorized Staff to obtain the required appraisal and proceed with the statutory process of selling the parcel at public auction as required by NRS 268.062. CL

Michele Rambo, Development Manager, explained this is the abandoned Well 16 parcel. We have had two adjoining neighbors interested in purchasing this property from the City. We have gone through the appraisal process and the appraisal is attached to the agenda packet. We are requesting that you accept the fair market value as determined and then adopt Resolution No. 14-20. If anything changes with all the regulations and COVID requirements, between now and the action, that is contrary to the Resolution, we will have to start over with a new public hearing.

Curtis Calder, City Manager, made a suggested change. The way the Resolution is drafted right now, remove the reference to the location of the auction, keep the date and reference the City Council Meeting and the time, and add the location to be determined. He asked Mr. Stanton if that prevent us from starting the process over.

Dave Stanton, City Attorney, thought Council could do that. The motion would be to approve the notice of adoption subject to that one provision that the location of the auction might be subject to change.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to accept the fair market value as determined at the public hearing and adopt Resolution No. 14-20, with the change that the auction will be at a location to be determined.**

The motion passed unanimously. (5-0)

- B. Public hearing pursuant to NRS 268.059(1)(a) regarding the fair market value and possible lease at public auction of approximately 8.69 acres of City-owned property located generally north of West Idaho Street, designated APN 006-09G-027. Discussion and possible motion determining that the annual market rent value of the property is \$19,000 in accordance with the appraisal of Jason Buckholz of CBRE, Inc., appraiser, and possible adoption of Resolution No. 15-20, a resolution of the Elko City Council finding it is in the best interest of the City to lease APN 006-09G-027, and hereby declaring its intention to lease such property at public auction pursuant to City Code Section 8-1-3 and NRS 268.062, and matters related thereto. **FOR POSSIBLE ACTION**

ESM2, LLC petitioned the City of Elko to lease a City-owned parcel designated APN 006-09G-027. The petitioner's current lease on that property expires June 30, 2020. Council accepted the petition and authorized Staff to obtain the required appraisal and proceed with the statutory process of leasing the parcel at public auction as required by NRS 268.062. CL

Councilman Schmidtlein recused himself and left the room.

Scott Wilkinson explained Pam Lattin sent a letter (Exhibit "B") expressing her concerns with the appraisal. The access from the NDOT Right-of-Way has been a concern. NDOT has expressed their concern to the City of Elko. The appraiser was informed of the issue and he has accounted for that in his appraisal. He discussed limited access. One of the issues brought forward in the letter was that he didn't include this limited access in the extraordinary assumptions. That would be uncertain information used in their analysis which, if found to be false, could alter the appraiser's opinions and conclusions. He asked the appraiser in an email (Exhibit "C") if it was determined through NDOT or the City that there was no access, would that change his appraisal. His answer was: Very little, if any. He didn't believe that rose to the level to be an extraordinary assumption. The appraiser has indicated in several emails that he believes his appraisal is sufficient and accurate. Ms. Lattin has asked that the appraisal be reviewed and corrected for accuracy.

Pam Lattin, ESM 2 LLC, spoke about the appraisal and limited access. They don't have a problem with the value of the property but rather about the access. As a leasee of the property, they need clarification that they can or cannot have access to SR535. One of the emails said the leasee would have to handle the access but the property belongs to the City of Elko. It would be her assumption that the City of Elko would go to NDOT and say this land has been out there for many years, it has access, it can be grandfathered in. The appraiser said it is a long-standing custom for access. She would like the City to step up and get this resolved. She disagrees with NDOT because they cannot deny access to landlocked parcels. They have rented this for 15 years and the value of the property has gone up. She requested a draft of the agreement that the City would have with the successful bidder and she has not seen one yet. She wanted to know what the terms would be.

Rich Barrows, Attorney, Wilson, Barrows, Salyer & Jones, said if the appraisal value is not the issue, then he recommended Council adopt the Resolution 15-20 and that the Council further direct staff to draft the lease and it should be sent to the bidders. The lease should expressly say that it is the City's position and NDOT's position that there is no access to the state route and it should be stated that it be up to the successful bidder to go to NDOT for access. There are many letters from NDOT stating that the access is not legal and should not be used. The City should not get involved with the argument with NDOT.

Mayor Keener said it was his understanding that with a landlocked piece of property, that NDOT cannot shut off access.

Mr. Barrows didn't agree with that assumption. Landlocked properties exist all the time and they depend upon the circumstances leading to it. He has read communications regarding this matter talking about a prescriptive easement for the right to continue to use it. He hasn't researched that question but he would be shocked that the law says you cannot acquire a prescriptive easement against the State.

Ms. Lattin asked if a leasee would have standing with NDOT to bargain on behalf of the City.

Mr. Barrows answered yes.

Ms. Lattin asked if NDOT would require a letter from the City, could they get a letter stating they have authority to do that.

Mr. Barrows answered he would recommend that.

Mr. Wilkinson said they would authorize that in the lease.

Mayor Keener asked 15 years ago, when this lease was initiated, was the drive right next to that property there at that time.

Mr. Wilkinson wasn't sure. They have looked at maps to see if they can tell when the driveway was there. They have not found anything where NDOT approved that.

Curtis Calder, City Manager, said if Council chooses to approve this Resolution, similar to the last Resolution, if they could just make the amendment regarding the location to be determined for the actual auction. This is unique compared to other properties in our inventory. This is actually part of the Elko Regional Airport and all lease revenues go to the airport per the FAA. Keep in mind, even though it is an increase in rent, it is only \$19,000 a year and we have spent more than \$10,000 in legal costs to this point on this issue.

Mayor Keener was in favor of this auction and resolution. He called for public comment without a response.

Mr. Calder said the successful bidder can negotiate the fine points of the lease. Not every bidder wants or needs the same things. We can add a clause in the lease that the access is up to the leasee to deal with NDOT.

Mr. Barrows added that the lease expressly say that the lessor guarantees no access to the State Route and it is up to the leasee to deal with NDOT to acquire access and the City authorizes the leasee to do that.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to accept the annual market rent value of the 8.69 acres of City owned property, generally north of West Idaho Street, APN 006-09G-027, in accordance of the appraisal of Jason Buckholz, and adopt Resolution No. 15-20, which finds it is in the best interest of the City to lease this lot. We also need to amend the location to read, to be determined for the actual auction.**

The motion passed. (4-0 Councilman Schmidlein abstained.)

- C. Review, consideration, and possible action to name field # 3 at the Elko Sports Complex after Ms. Linda Trontel, and matters related thereto. **FOR POSSIBLE ACTION**

The Council reviewed a petition from Ms. Brandi Davis and other community members regarding the possible naming of field # 3 at the Elko Sports Complex after Ms. Linda Trontel on July 14, 2020. Pursuant to the criteria for naming City of Elko Facilities and Parks, staff requested additional public comment from organizations and citizens utilizing the facility. Subject to comments and

Ms. Laughlin answered yes.

Mayor Keener opened the envelope. He read the paper inside (Exhibit "C"). "Bid for property. Date: August 25, 2020. From Sue Smales and Butch Smales Family Trust, 1400 Sewell Drive, Elko. Official Bid for Property Parcel APN: 001-013-018, in the amount of \$14,500. And this appears to be the only bid that was received. He asked if there was anyone that was interested in this item. There was no response to the request.

Patty Smales, Smales Trust, announced herself online.

Mayor Keener said she was the sole bidder unless someone else chimes in. He offered to give them a few more moments to make a verbal bid for the property. After waiting 30 seconds for a response he congratulated Ms. Smales for being the successful bidder. He looks forward to seeing the property developed.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to accept the bid in the amount of \$14,500 from the Smales Family Trust.**

The motion passed unanimously. (5-0)

- B. Review of bids received and subsequent public auction for the lease of approximately 8.69 acres of City owned property located generally north of West Idaho Street, referred to as APN 006-09G-027, and matters related thereto. **FOR POSSIBLE ACTION**

On July 28, 2020, City Council approved Resolution No. 15-20, which set forth the conditions of the public auction for the lease of City owned land. The minimum annual market rent must be \$19,000.00. A copy of Resolution No. 15-20 has been enclosed in the agenda packet for review. CL

Councilman Schmidtlein recused himself from the discussion due to a conflict.

Mayor Keener noted he had only one envelope.

Cathy Laughlin, City Planner, said just like the last item, all bids would have been required to be received by the City Clerk by 5:30 pm today. If you have just the one bid, then that would be all that we have.

Councilman Hance noted that we still open it up for oral bids.

Mayor Keener stated the envelope was received on 8/25/2020 at 3:05 pm, initialed by Debbie Henseler of the Clerk's Office. The letter inside was from ESM2, LLC (Exhibit "D"). They have a bid for the aforementioned APN. ESM2, LLC offers an annual bid of \$19,000 for a period of ten (10) years, subject to renewal for an additional five (5) years for the above referenced property. Respectfully submitted, Pamela Lattin. He asked if anyone else would like to bid on this agenda item for the lease of approximately 8.69 acres of City owned property, located generally north of West Idaho Street. After a short wait he noted there weren't any takers on that. It appeared that the incumbent tenant would be able to maintain their lease on this.

**** A motion was made by Councilman Stone, seconded by Councilman Hance, to accept the bid of \$19,000 annually, subject to compliance to Resolution No. 15-20.**

The motion passed. (4-0 Councilman Schmidlein abstained.)

- C. Review, consideration, and possible adoption of Resolution No. 17-20, a resolution of the Elko City Council, amending the Elko City Master Plan, specifically amending: 1) the Proposed Future Land Use Plan Atlas Map 8 on six parcels of land located on S. 5th Street generally between Carlin Court and S. 9th Street; 2) the Land Use Section to add RO (Residential Office) as a corresponding zoning under the Downtown Mixed-Use land use designation; and 3) the Proposed Future Land Use Plan Atlas Map 8 on one parcel located at the western terminus of Rocky Road, filed as Elko City Master Plan Amendment No. 2-20, and matters related thereto. **FOR POSSIBLE ACTION**

On August 4, 2020, the Planning Commission adopted its Resolution No. 2-20 to amend the Proposed Future Land Use Plan Atlas Map 8 and the RO (Residential Office) Land Use Section of the current Elko City Master Plan as outlined above. An amendment of this type requires positive action by both the Planning Commission and the City Council. If the City Council suggests any changes to the Master Plan amendment as adopted by the Planning Commission, the Master Plan must first go back to the Planning Commission for review and approval. MR

Cathy Laughlin, City Planner, explained a copy of the Planning Commission Resolution was included in the packet. This is mostly a lot of cleaning house. This amendment was started as the proposed sales of the 15+ acres to the VA. That property was not in the Master Plan for Public Use. Also, some property on the south side of town had not been designated for commercial use. This will clean up those two areas.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Hance, seconded by Councilman Stone, to adopt Resolution No. 17-20.**

The motion passed unanimously. (5-0)

- G. Review, consideration, and possible action to conditionally approve Tentative Map No. 5-20, filed by BDSA, LLC, for the development of a subdivision entitled Tower Hill Unit 4, involving the proposed division of approximately 8.601 acres of property into 5 lots for residential development within the R1 (Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The subject property is located northeast of Lamoille Highway and south of Stitzel Road (APN 001-929-125). The Planning Commission considered this item on August 4, 2020, and took action to forward a recommendation to conditionally approve Tentative Map 5-20. MR

Cathy Laughlin

From: Pamela Lattin <p.lattin@canyonconstructionco.com>
Sent: Friday, August 21, 2020 11:08 AM
To: Cathy Laughlin; Robert Schmidlein
Subject: RE: Draft Lease
Attachments: 8.69 ACRES LEASE.pdf

Cathy, attached is the Draft Lease you emailed us. I am returning it with a few requests we have.

When you review the attached Lease, I believe you will not so typo errors which are not significant.

However, I believe the land is in the County not the City in Section 1.01

Section 3.03 The annual rent increase is too high at 2%. This is vacant land that has no other development potential other than vacant land due to FFA restrictions, we request an annual increase of 1%.

Section 5.01 Delete the wording "highest standards applicable to parking" and replace with something less subjective such as "Lessee shall not allow any public nuisances to occur on the property and Lessee shall eliminate such conditions upon 7 days written notice by the City"

Section 5.03 Delete in its entirety and replace with "City shall not be required to incur any expenses resulting from Lessee accessing State Route 535 (West Idaho Street) Any discussions and/or negotiations regarding the matter will be between Lessee and NDOT. Lessee agrees to hold harmless and indemnify Lessor from any legal action brought by third parties as a result of Lessee's use of the existing access."

Section 9.01 What Waste (garbage? Litter? Nuclear?) Please know that 15 years ago there was an extreme amount of 'waste' (deteriorated cars, garbage, dead animal carcasses, tires, etc.) on the property that we removed

Section 11.01 As a common courtesy and probably by law, the City should give us 15 days' notice if they have not received a monthly payment. We have 15 years history of timely payments. Obviously, there may be acceptable reasons why the City did not receive a payment – such as the dependability of the US Postal Service, etc.

Something I stated when we previously received the "Resolution" from the City that stated 'we were leasing the land' to others, which was a false statement, and other negative comments made in documents which were also untrue, is that the City has the right to come and inspect the property. As a common courtesy, the City may call me at any time and ask me questions and come onto the property. If the City has questions, take the time to make a call instead of involving the City attorney and incurring expenses. Matters can easily be resolved before negative comments and untrue statements are made.

Pamela Lattin
Secretary/Treasurer
Canyon Construction Company
PO Box 2030 Elko, NV 89801
775.738.2210 x 106
775.934.1934 (cell)

From: Cathy Laughlin <claughlin@elkocitynv.gov>

Sent: Tuesday, August 18, 2020 9:30 AM

To: Robert Schmidtlein <rschmidtlein@elkocitynv.gov>; Pamela Lattin <p.lattin@canyonconstructionco.com>

Subject: Draft Lease

This is still draft but you requested to see the draft lease before the auction on August 25th.

Let me know if you have any questions.

Thanks,

Cathy Laughlin
City Planner

(775)777-7160 ph

(775)777-7219 fax

claughlin@elkocitynv.gov

City of Elko

1751 College Avenue

Elko, NV 89801

LEASE AGREEMENT
(Parking, Equipment and Materials Storage Yard)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 20____ (the "Effective Date") by and between the CITY OF ELKO, a special charter municipal corporation and political subdivision of the State of Nevada, hereinafter referred to as "Lessor," and _____, hereinafter referred to as "Lessee."

W I T N E S S E T H :

That for and in consideration of the rents, covenants and agreements herein contained, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the herein-described property located on West Idaho Street in the City of Elko, Nevada, upon the terms and conditions described hereinafter.

SECTION 1
PROPERTY

1.01 Description. Lessor does hereby lease to Lessee, and the Lessee does hereby lease from Lessor, that certain parcel of land situate, lying and being on West Idaho Street, City of Elko, State of Nevada (APN 006-09G-027), consisting of 8.69 acres, more or less, and which parcel (hereinafter "Leased Premises") is more particularly described on **Exhibit A** attached hereto and shown on the map at **Exhibit B**, which are made a part hereof by this reference.

SECTION 2
TERM OF LEASE

2.01 Term. This Lease Agreement shall begin _____, 2020 and continue for a period of ten (10) years thereafter, ending at midnight on _____, 202__ (hereinafter the "Initial Term"), unless sooner terminated as in this Lease Agreement provided.

2.02 Option to Extend. At the expiration of the Initial Term, if this Lease shall then be in full force and effect and the Lessee shall have fully and timely performed all of the terms and conditions, the Lessee shall have the option to extend this Lease for five (5) additional years subject to the same terms and conditions. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of the Initial Term, and if the Lessor does not receive written notice of the exercise of this

*Requirements for Bid
June, Date, 2000*

option on or before such date, this option shall terminate on that date, time being of the essence. The Initial Term and any extension thereto are collectively referred to herein as the "Term."

SECTION 3

RENT

3.01 Monthly Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises for the sum of \$ _____ per year.

3.02 Initial Payment of Rent. Upon execution of this Lease, Lessee agrees to pay to Lessor as rent for the premises an initial prorated sum of \$ _____ for the corresponding fraction of the first month of the Lease and \$ _____ per month thereafter, subject to annual increases as set forth in Section 3.03, below, payable on the first day of each and every month during the Term.

3.03 Annual Rent Increases. During the Term, the rental amount shall be increased annually on each anniversary of the Effective Date by two percent (2%) over the rental amount in effect in the month immediately preceding such anniversary date.

SECTION 4

USE OF LEASED PREMISES

4.01 Uses Prohibited. It is agreed between Lessor and Lessee that the Lessee shall use the Leased Premises only for parking, including parking associated with park and ride activities and the storage of equipment and materials typically used in the construction trade and no other use shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 5

LESSEE'S RESPONSIBILITIES

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards applicable to parking, including parking associated with park and ride activities and the storage of equipment and materials. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

5.02 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of its property on the Leased Premises. The City of Elko shall have no liability for the theft or loss of or damage to the Lessee's property, and as a material

consideration for this Lease, the City of Elko, and its officers, supervisors, agents and employees are hereby released and discharged from all claims, demands and liability therefor.

5.03 Access. Lessee shall be responsible for access to and from the Leased Premises, and Lessor shall have no responsibility therefor. Lessee acknowledges that as of the Effective Date, the Nevada Department of Transportation (NDOT) does not permit access from State Route 535 (West Idaho Street) to the Leased Premises. Lessee is solely responsible for obtaining permission from NDOT to access the Leased Premises and for complying with all conditions of such access if permission is granted by NDOT. Lessor does not represent that NDOT will permit access to the Leased Premises from State Route 535 (West Idaho Street) and the failure of Lessee to obtain such access will not relieve Lessee of its obligations under this Lease. Lessor agrees to cooperate with Lessee, in Lessee's efforts to obtain access to State Route 535 (West Idaho Street). Such cooperation is restricted to minimal administrative duties such as, but not limited to accepting an access permit from NDOT as the property owner. Such cooperation excludes any activities including but not limited to, legal fees, cost of improvements required by NDOT for granting access and the cost of maintaining any access improvements required by NDOT. 150

SECTION 6

REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

6.01 Lessee to Remove Personal Property. In the event of the termination of this Lease, Lessee shall have a reasonable time (but in any event no less than thirty (30) days) to remove from the Leased Premises all personal property owned by Lessee.

SECTION 7

INDEMNIFICATION AND HOLD HARMLESS

7.01 Indemnification of City. The Lessee does hereby covenant and agree to defend, indemnify and save harmless the City of Elko, its officers, supervisors, employees and agents from all fines, suits, claims, demands, expenses, fees, liabilities, defenses and actions of any kind and nature by reason of any and all of the Lessee's operations hereunder and any and all negligence, acts and omissions of the Lessee's and their agents, employees, officers and directors and do hereby agree to assume all the risk and liability of the operation of their business hereunder.

SECTION 8

CONDUCT BY LESSEE

8.01 Compliance with Applicable Laws. Lessee shall conduct and handle the Leased Premises in a lawful and orderly manner and shall comply with all city, county, state and federal laws, rules, regulations, ordinances and codes, as well as administrative rules and regulations governing the use of property and conduct of operations at Elko Regional Airport. A copy of the Elko Regional Airport Rules and Regulations is attached hereto as Exhibit C.

SECTION 9 WASTE

9.01 No Waste Permitted. Lessee will not commit or permit to be committed any waste upon the Leased Premises.

SECTION 10 (INTENTIONALLY OMITTED)

SECTION 11 DEFAULT AND TERMINATION

11.01 Termination of Lease Upon Default. In the event that the rent herein provided for, in any part or portion thereof shall be in arrears or shall be unpaid on the date when the same is provided to be paid, and for ten (10) days thereafter, it shall be and may be lawful for the City of Elko, its agents or legal representatives to go to and upon the Leased Premises, and to again repossess itself thereof, and to hold and enjoy the Leased Premises without let or hindrance by Lessee, anything herein to the contrary notwithstanding. Such repossession of the Leased Premises by the City of Elko shall constitute a termination of this Lease.

11.02 Breach. In the event of default of any of the payments herein provided for, or any breach of any one or all of the clauses, covenants and agreements contained in this Lease, City of Elko shall have the right and option of declaring all monies at once due and payable and repossess itself of the Leased Premises without suit, either at law or in equity.

SECTION 12 QUIET POSSESSION

12.01 Lessee's Right to Occupy. The Lessee, upon making the payments herein provided for and in the manner provided, and complying with each, every and all of the terms, clauses and covenants of this Lease, shall have the sole right and option of occupying the Leased Premises under the terms of this Lease during the full term herein

provided, without any let or hindrance by said Lessor.

SECTION 13 IMPROVEMENTS

13.01 Improvements Prohibited. Lessee shall not place any structures on or make improvements to the Leased Premises without the prior written consent of Lessor.

SECTION 14 AIRPORT MASTER PLAN

14.01 Termination of Lease. The Lessee understands that the Lessor has a master plan at the airport, that the master plan is subject to amendment, and that changes to the matters set forth in this lease may become necessary as a result. Lessee, accordingly, covenants and agrees, notwithstanding any provisions of this Lease to the contrary, that the Lessor may terminate this Lease at any time during the term of this Lease, or any renewable extension thereof, by written notice mailed or delivered to Lessee as provided in Section 19.04 hereof, and upon any such termination, the Lessee shall within thirty (30) days from the date of such notice of termination, vacate the Leased Premises, surrender this Lease in the premises, and remove from the Leased Premises all of Lessee's property.

SECTION 15 ASSIGNMENT

15.01 No Assignment. This Lease shall not be assigned, nor shall any ^{21/}of all of the Leased Premises be relet or sublet by the Lessee without the written consent of the Lessor first had and obtained.

SECTION 16 LIENS / ENCUMBRANCES

16.01 Status of Lease. The Lessee shall not allow any encumbrances, liens or processes of law to attach against the Leased Premises, or Lessor's interest therein. Any attempted legal process levied against the Leased Premises, or Lessor's interest therein, if attempted in good faith, shall result in a complete termination of this Lease and a termination of Lessee's right in and to this Lease and the Leased Premises, subject to the right of Lessee to cause a discharge of any lien within sixty (60) days after filing or levy thereof, and in the event of such discharge, this Lease shall continue in full force and effect.

**SECTION 17
(INTENTIONALLY OMITTED)**

**SECTION 18
INSPECTION**

18.01 Lessor's Right to Inspect. Lessor reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this Lease.

**SECTION 19
ADDITIONAL TERMS**

19.01 FAA Requirements. Lessee shall comply with all terms and conditions required by the FAA Safety/Compliance Inspector as set forth on **Exhibit D** attached hereto.

19.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease shall immediately terminate without further notice and any personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 19.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for parking associated with park and ride activities and the storage of equipment and materials for a period of ninety (90) days.

19.03 Waiver. No waiver by the Lessor or default, violation of or non-performance of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default, violations or non-performance. The acceptance of rental or the performance of all or any part of this Lease Agreement by Lessor for or during any period or periods of default, violation or non-performance of any of these terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of the Lessor to cancel this Lease Agreement for failure of Lessee to so perform, keep or observe any of the items, covenants or conditions hereof.

19.04 Notices. All notices sent to the parties under this Lease shall be addressed as follows:

CITY OF ELKO:	Elko Regional Airport Manager
	City of Elko

1751 College Avenue
Elko, NV 89801

LESSEE:

19.05 Attorney Fees. In any dispute between the parties hereto resulting in legal action, the prevailing party shall be entitled to reasonable attorney fees and court costs.

19.06 Binding Effect. This Lease shall be binding upon and inure to the benefit of the Lessor, its successors and assigns, and upon the Lessee, their heirs, successors and assigns, subject to the restrictions against subletting and assignments.

19.07 Time. Time is of the essence of this Lease. In the event that any date specified in this Lease falls on Saturday, Sunday or a public holiday, such date shall be deemed to be the succeeding day on which the public agencies and major banks are open for business.

19.08 Governing Law. The validity, construction and enforceability of this Lease shall be governed in all respects by the law of Nevada applicable to agreements negotiated, executed and performed in Nevada by Nevada residents, whether one or more of the parties shall now be or hereafter become a resident of another state. Any disputes arising hereunder shall be resolved in the Fourth Judicial District Court in and for the County of Elko, State of Nevada.

19.09 Captions. The captions of this Lease do not in any way limit or amplify the terms and provisions of this Lease.

19.10 Severability. Each provision of this Lease is severable from any and all other provisions of this Lease. Should any provision(s) of this Lease be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the day and year first above written.

LESSOR:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

ATTEST:

Kelly Wooldridge, City Clerk

LESSEE:

By: _____

Its: _____

Scott A. Wilkinson

From: Scott A. Wilkinson
Sent: Tuesday, October 6, 2020 3:40 PM
To: 'Pamela Lattin'
Cc: Jim Foster; Curtis Calder
Subject: RE: Airport Property Lease
Attachments: Lease Agreement (SAW 10.6.2020 redline).pdf

Pam,

Attached is a redline version of the lease to be presented to Council on Oct 13. I added ESM2 to the first paragraph and made minor edit to Section 3 addressing the fact that equal payments calculate to 4 cents less than the annual rent. I deleted reference to Exhibit D as it is referenced in Section 19.01. Give me a call or email if you have any questions.

Thank you,

Scott A. Wilkinson
Assistant City Manager
775.777.7211
sawilkinson@elkocitynv.gov

From: Scott A. Wilkinson
Sent: Wednesday, September 23, 2020 1:38 PM
To: Pamela Lattin <p.lattin@canyonconstructionco.com>
Cc: Jim Foster <jfoster@elkocitynv.gov>; Curtis Calder <ccalder@elkocitynv.gov>
Subject: RE: Airport Property Lease

Pam,

You can bring up your concerns with the Council. On the yearly increase, the 2% is consistent with other more recent leases at the airport. That would probably be the more significant issue. Second for me would be the detailed language on the access, or lack thereof. I will inform the Council that the lease was in packet and substantive changes are not recommended by staff. The issue of fairness in the public auction process comes into question on this lease or other transactions the City may pursue if substantive changes are made to a document included in the agenda packet. If the council wishes to make substantial revision to the lease agreement, I would recommend that they conduct a new public auction with the revised lease in the packet to ensure a fair and equitable process.

Let me know your decision and we can go from there.

Stay safe also. This COVID thing is getting old but nevertheless serious.

Thank you,

Scott A. Wilkinson
Assistant City Manager
775.777.7211
sawilkinson@elkocitynv.gov

From: Pamela Lattin <p.lattin@canyonconstructionco.com>

Sent: Wednesday, September 23, 2020 11:50 AM

To: Scott A. Wilkinson <sawilkinson@elkocitynv.gov>

Subject: RE: Airport Property Lease

I do have comments because I was told I could bring up any concerns with the lease 'if' I was the successful bidder. However, your email implied that we take it or leave it. I'll let you know by tomorrow if we are going to accept the lease as is.

Be safe.

Pamela Lattin
Secretary/Treasurer
Canyon Construction Company
PO Box 2030 Elko, NV 89801
775.738.2210 x 106
775.934.1934 (cell)

From: Scott A. Wilkinson <sawilkinson@elkocitynv.gov>

Sent: Wednesday, September 23, 2020 9:14 AM

To: Pamela Lattin <p.lattin@canyonconstructionco.com>

Cc: Curtis Calder <ccalder@elkocitynv.gov>; Jim Foster <jfoster@elkocitynv.gov>

Subject: RE: Airport Property Lease

Pam,

I was wondering if you had any comment on the lease. Jim will place this on the October 13 agenda for final Council approval.

Thank you,

Scott A. Wilkinson
Assistant City Manager
775.777.7211
sawilkinson@elkocitynv.gov

From: Scott A. Wilkinson

Sent: Friday, September 18, 2020 3:26 PM

To: Pamela Lattin (p.lattin@canyonconstructionco.com) <p.lattin@canyonconstructionco.com>

Cc: Curtis Calder <ccalder@elkocitynv.gov>; Jim Foster <jfoster@elkocitynv.gov>

Subject: Airport Property Lease

Pam,

I have reviewed your requested revision to the draft lease that was a component of the public auction held by the City on August 25, 2020. I have corrected the typographical errors and included Exhibits A and B in the document. I also reference to Exhibit D of the lease, included in the lease but not specifically referenced.

See the attached document with the revisions highlighted as follows:

Page 1 – WITNESSETH, typographical error corrected; Section 1, typographical errors corrected

Page 2 – Section 3.03, typographical error corrected
Page 4 – Section 8.01, Reference to Exhibit D added
Page 5 – Section 15.01, typographical error corrected
EXHIBIT A – Legal Description added
EXHIBIT B – Image file showing leased area added

I did not revise Sections 3.03, 5.01, 5.03, 9.01, 11.01 per your request outlined in your email to Cathy Laughlin dated August 21, 2020. The revisions were be substantive and contrary to the public auction process. With the exception of correcting typographical errors, your bid included the form of the lease “as is”. Other potential bidders may have chosen not to bid based on their review of lease contained in the agenda backup material and therefore a part of the public auction process.

If the proposed revisions to lease are acceptable to you, I will send a final copy to you for execution.

Thank you,

Scott A. Wilkinson
Assistant City Manager
775.777.7211
sawilkinson@elkocitynv.gov

LEASE AGREEMENT
(Parking, Equipment and Materials Storage Yard)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 20__ (the "Effective Date") by and between the CITY OF ELKO, a special charter municipal corporation and political subdivision of the State of Nevada, hereinafter referred to as "Lessor," and ESM2, LLC, hereinafter referred to as "Lessee."

W I T N E S S E T H :

That for and in consideration of the rents, covenants and agreements herein contained, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the herein-described property located on West Idaho Street in the Elko County City of Elko, Nevada, upon the terms and conditions described hereinafter.

SECTION 1
PROPERTY

1.01 Description. Lessor does hereby lease to Lessee, and the Lessee does hereby lease from Lessor, that certain parcel of land situate, lying and being on West Idaho Street, Elko County City of Elko, State of Nevada (APN 006-09G-027), consisting of 8.69 acres, more or less, and which parcel (hereinafter "Leased Premises") is more particularly described on **Exhibit A** attached hereto and shown on the map as **Exhibit B**, which are made a part hereof by this reference.

SECTION 2
TERM OF LEASE

2.01 Term. This Lease Agreement shall begin _____, 2020 and continue for a period of ten (10) years thereafter, ending at midnight on _____, 202__ (hereinafter the "Initial Term"), unless sooner terminated as in this Lease Agreement provided.

2.02 Option to Extend. At the expiration of the Initial Term, if this Lease shall then be in full force and effect and the Lessee shall have fully and timely performed all of the terms and conditions, the Lessee shall have the option to extend this Lease for five (5) additional years subject to the same terms and conditions. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of the Initial Term, and if the Lessor does not receive written notice of the exercise of this option on or before such date, this option shall terminate on that date, time being of the

essence. The Initial Term and any extension thereto are collectively referred to herein as the "Term."

SECTION 3

RENT

3.01 Annual Monthly Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises for the sum of \$ 19,000.00 per year.

3.02 Initial and Monthly Payment of Rent. Upon execution of this Lease, Lessee agrees to pay to Lessor as rent for the premises an initial prorated sum of \$ _____ for the corresponding fraction of the first month of the Lease and equal payments of \$1583.33 per month with the final payment adjusted for all amounts due as set forth in Section 3.01 thereafter, subject to annual increases as set forth in Section 3.03, below, payable on the first day of each and every month during the Term.

3.03 Annual Rent Increases. During the Term, the rental amount shall be increased annually on each anniversary of the Effective Date by two percent (2%) over the rental amount in effect in the month immediately preceding such anniversary date...

SECTION 4

USE OF LEASED PREMISES

4.01 Uses Prohibited. It is agreed between Lessor and Lessee that the Lessee shall use the Leased Premises only for parking, including parking associated with park and ride activities and the storage of equipment and materials typically used in the construction trade and no other use shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 5

LESSEE'S RESPONSIBILITIES

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards applicable to parking, including parking associated with park and ride activities and the storage of equipment and materials. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

5.02 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of its property on the Leased Premises. The City of Elko shall have

no liability for the theft or loss of or damage to the Lessee's property, and as a material consideration for this Lease, the City of Elko, and its officers, supervisors, agents and employees are hereby released and discharged from all claims, demands and liability therefor.

5.03 Access. Lessee shall be responsible for access to and from the Leased Premises, , and Lessor shall have no responsibility therefor. Lessee acknowledges that as of the Effective Date, the Nevada Department of Transportation (NDOT) does not permit access from State Route 535 (West Idaho Street) to the Leased Premises. Lessee is solely responsible for obtaining permission from NDOT to access the Leased Premises and for complying with all conditions of such access if permission is granted by NDOT. Lessor does not represent that NDOT will permit access to the Leased Premises from State Route 535 (West Idaho Street) and the failure of Lessee to obtain such access will not relieve Lessee of its obligations under this Lease. Lessor agrees to cooperate with Lessee, in Lessee's efforts to obtain access to State Route 535 (West Idaho Street). Such cooperation is restricted to minimal administrative duties such as, but not limited to accepting an access permit from NDOT as the property owner. Such cooperation excludes any activities including but not limited to, legal fees, cost of improvements required by NDOT for granting access and the cost of maintaining any access improvements required by NDOT.

SECTION 6

REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

6.01 Lessee to Remove Personal Property. In the event of the termination of this Lease, Lessee shall have a reasonable time (but in any event no less than thirty (30) days) to remove from the Leased Premises all personal property owned by Lessee.

SECTION 7

INDEMNIFICATION AND HOLD HARMLESS

7.01 Indemnification of City. The Lessee does hereby covenant and agree to defend, indemnify and save harmless the City of Elko, its officers, supervisors, employees and agents from all fines, suits, claims, demands, expenses, fees, liabilities, defenses and actions of any kind and nature by reason of any and all of the Lessee's operations hereunder and any and all negligence, acts and omissions of the Lessee's and their agents, employees, officers and directors and do hereby agree to assume all the risk and liability of the operation of their business hereunder.

SECTION 8

CONDUCT BY LESSEE

8.01 Compliance with Applicable Laws. Lessee shall conduct and handle the Leased Premises in a lawful and orderly manner and shall comply with all city, county, state and federal laws, rules, regulations, ordinances and codes, as well as administrative rules and regulations governing the use of property and conduct of operations at Elko Regional Airport. A copy of the Elko Regional Airport Rules and Regulations is attached hereto as **Exhibit C.**

SECTION 9

WASTE

9.01 No Waste Permitted. Lessee will not commit or permit to be committed any waste upon the Leased Premises.

SECTION 10

(INTENTIONALLY OMITTED)

SECTION 11

DEFAULT AND TERMINATION

11.01 Termination of Lease Upon Default. In the event that the rent herein provided for, in any part or portion thereof shall be in arrears or shall be unpaid on the date when the same is provided to be paid, and for ten (10) days thereafter, it shall be and may be lawful for the City of Elko, its agents or legal representatives to go to and upon the Leased Premises, and to again repossess itself thereof, and to hold and enjoy the Leased Premises without let or hindrance by Lessee, anything herein to the contrary notwithstanding. Such repossession of the Leased Premises by the City of Elko shall constitute a termination of this Lease.

11.02 Breach. In the event of default of any of the payments herein provided for, or any breach of any one or all of the clauses, covenants and agreements contained in this Lease, City of Elko shall have the right and option of declaring all monies at once due and payable and repossess itself of the Leased Premises without suit, either at law or in equity.

SECTION 12

QUIET POSSESSION

12.01 Lessee's Right to Occupy. The Lessee, upon making the payments herein provided for and in the manner provided, and complying with each, every and all of the terms, clauses and covenants of this Lease, shall have the sole right and option of

occupying the Leased Premises under the terms of this Lease during the full term herein provided, without any let or hindrance by said Lessor.

SECTION 13 **IMPROVEMENTS**

13.01 Improvements Prohibited. Lessee shall not place any structures on or make improvements to the Leased Premises without the prior written consent of Lessor.

SECTION 14 **AIRPORT MASTER PLAN**

14.01 Termination of Lease. The Lessee understands that the Lessor has a master plan at the airport, that the master plan is subject to amendment, and that changes to the matters set forth in this lease may become necessary as a result. Lessee, accordingly, covenants and agrees, notwithstanding any provisions of this Lease to the contrary, that the Lessor may terminate this Lease at any time during the term of this Lease, or any renewable extension thereof, by written notice mailed or delivered to Lessee as provided in Section 19.04 hereof, and upon any such termination, the Lessee shall within thirty (30) days from the date of such notice of termination, vacate the Leased Premises, surrender this Lease in the premises, and remove from the Leased Premises all of Lessee's property.

SECTION 15 **ASSIGNMENT**

15.01 No Assignment. This Lease shall not be assigned, nor shall any orf all of the Leased Premises be relet or sublet by the Lessee without the written consent of the Lessor first had and obtained.

SECTION 16 **LIENS / ENCUMBRANCES**

16.01 Status of Lease. The Lessee shall not allow any encumbrances, liens or processes of law to attach against the Leased Premises, or Lessor's interest therein. Any attempted legal process levied against the Leased Premises, or Lessor's interest therein, if attempted in good faith, shall result in a complete termination of this Lease and a termination of Lessee's right in and to this Lease and the Leased Premises, subject to the right of Lessee to cause a discharge of any lien within sixty (60) days after filing or levy thereof, and in the event of such discharge, this Lease shall continue in full force and effect.

**SECTION 17
(INTENTIONALLY OMITTED)**

**SECTION 18
INSPECTION**

18.01 Lessor's Right to Inspect. Lessor reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it may deem appropriate for the proper enforcement of any of the covenants or conditions of this Lease.

**SECTION 19
ADDITIONAL TERMS**

19.01 FAA Requirements. Lessee shall comply with all terms and conditions required by the FAA Safety/Compliance Inspector as set forth on **Exhibit D** attached hereto.

19.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease shall immediately terminate without further notice and any personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 19.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for parking associated with park and ride activities and the storage of equipment and materials for a period of ninety (90) days.

19.03 Waiver. No waiver by the Lessor or default, violation of or non-performance of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default, violations or non-performance. The acceptance of rental or the performance of all or any part of this Lease Agreement by Lessor for or during any period or periods of default, violation or non-performance of any of these terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of the Lessor to cancel this Lease Agreement for failure of Lessee to so perform, keep or observe any of the items, covenants or conditions hereof.

19.04 Notices. All notices sent to the parties under this Lease shall be addressed as follows:

CITY OF ELKO:

Elko Regional Airport Manager

City of Elko
1751 College Avenue
Elko, NV 89801

LESSEE:

19.05 Attorney Fees. In any dispute between the parties hereto resulting in legal action, the prevailing party shall be entitled to reasonable attorney fees and court costs.

19.06 Binding Effect. This Lease shall be binding upon and inure to the benefit of the Lessor, its successors and assigns, and upon the Lessee, their heirs, successors and assigns, subject to the restrictions against subletting and assignments.

19.07 Time. Time is of the essence of this Lease. In the event that any date specified in this Lease falls on Saturday, Sunday or a public holiday, such date shall be deemed to be the succeeding day on which the public agencies and major banks are open for business.

19.08 Governing Law. The validity, construction and enforceability of this Lease shall be governed in all respects by the law of Nevada applicable to agreements negotiated, executed and performed in Nevada by Nevada residents, whether one or more of the parties shall now be or hereafter become a resident of another state. Any disputes arising hereunder shall be resolved in the Fourth Judicial District Court in and for the County of Elko, State of Nevada.

19.09 Captions. The captions of this Lease do not in any way limit or amplify the terms and provisions of this Lease.

19.10 Severability. Each provision of this Lease is severable from any and all other provisions of this Lease. Should any provision(s) of this Lease be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the day and year first above written.

LESSOR:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

ATTEST:

Kelly Wooldridge, City Clerk

LESSEE:

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION

A.P.N. 006-09G-027

All those certain lots, pieces, or parcels of land situate in the County of Elko, State of Nevada, more particularly described as follows:

A Tract of land in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 19, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 20, T. 34N., R.55E., MDB&M., more particularly described as follows:

Beginning at Corner No. 1 from which the $\frac{1}{4}$ corner of Sections 19 and 20, T.34N., R.55E., bears S.0°15'20" E., 57.08 feet;

Thence S. 58°21'W., 667.12 feet to Corner No. 2;

Thence S.27°18'E., 1425.25 feet to Corner No. 3;

Thence N.53°46'E., 39.55 feet to Corner No. 4;

Thence N.27°18'W., 243.19 feet to Corner No. 5, also a point in the section line between Sections 19 and 20;

Thence N.0°15'20"W., 1377.08 feet along said sections line to Corner No. 1, the place of beginning.

EXCEPTING THEREFROM that portion deeded to the STATE OF NEVADA described as follows:

Beginning at a point 150.00 feet right of and measured radially from the East bound centerline of Nevada Interstate Route 80 (S.R.-1), Project I-080-4 (11) 277, at Highway Engineer's Station "DE" 642 + 13.81 P.O.C., and being further described as bearing S.50°23'30W., a distance of 653.50 feet from the East $\frac{1}{4}$ corner of Section 19, T.34N., R.55E., MDB&M.

Thence N.27°12'29"W., along the Western boundary of the LOUIS CLARKSON property as recorded in Book 63 of Deeds, Page 99, Elko County, Nevada, on April 4, 1953, a distance of 138.71 feet to the Northwest corner of said LOUIS CLARKSON property;

Thence N. 58°17'10"E., along the Northern boundary of said LOUIS CLARKSON property, a distance of 666.48 feet to the Northeast corner of LOUIS CLARKSON;

Thence S. $46^{\circ}44'54$ W, along the right or Southern highway right of way line of Nevada
Interstate Route 80 (S.R. -1), a distance of 691.34 feet to the point of beginning.

EXHIBIT B

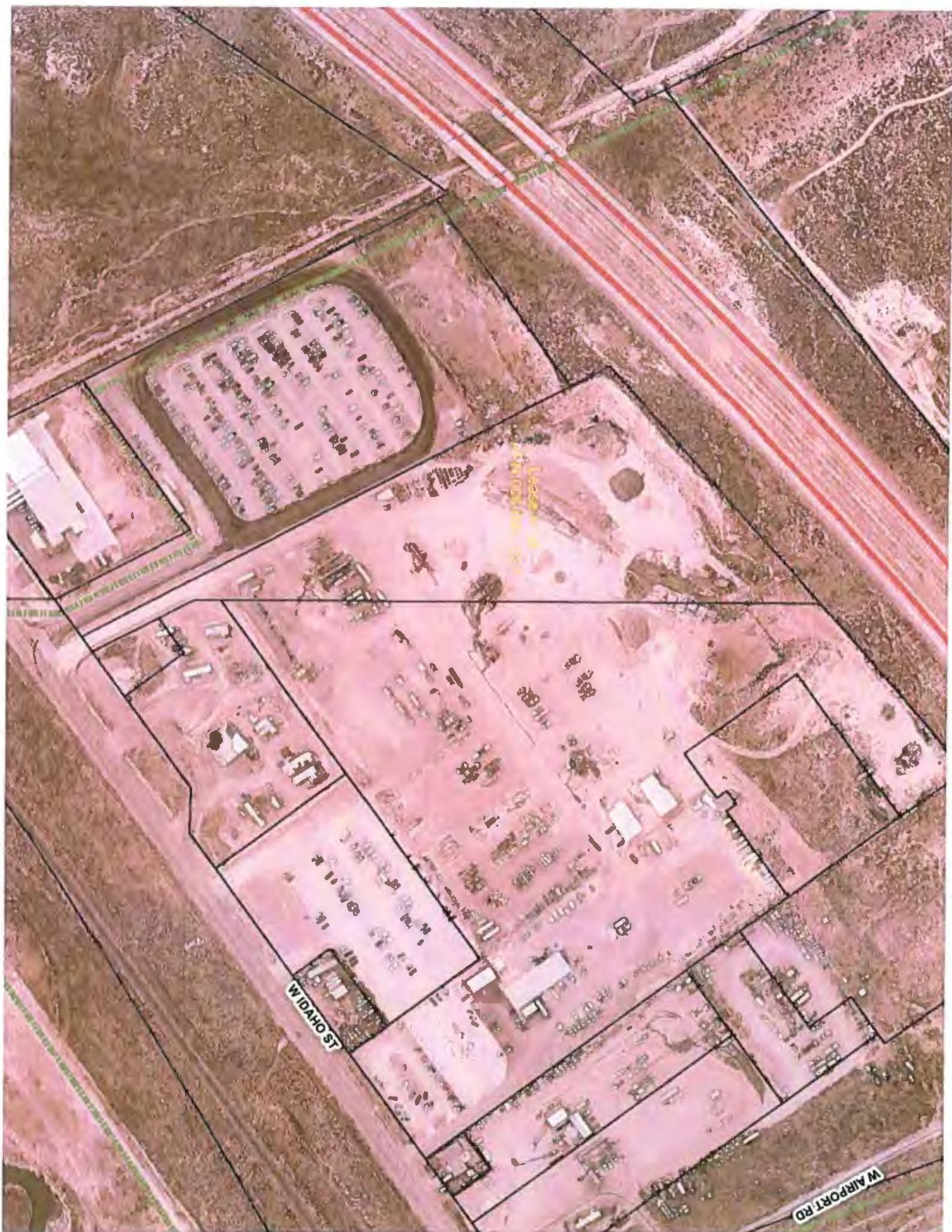


EXHIBIT C

RULES AND REGULATIONS

CHAPTER I **GENERAL PROVISIONS**

SECTION 1. Definitions

As used in these Rules and Regulations, unless the text otherwise requires:

1. Airport means the Elko Regional Airport and all of the area, building facilities, and improvements within the exterior boundaries of such airport as it now exists or as it may hereafter be extended or enlarged.

2. Airport Director means the person hired by the City, whose job duties are outlined in Section 2.

3. Council means the Elko City Council of the City of Elko, Nevada.

4. City means the City of Elko, Elko County, Nevada.

5. F.A.A. means the Federal Aviation Administration.

6. Person means any individual, firm, partnership, corporation, company, association, joint-stock association or body politic, and includes any trustee, receiver assignee or other similar representative thereof.

7. Advisory Board means the Elko Regional Airport Advisory Board established by the Elko City Council.

SECTION 2. Airport Director

The Airport Director shall be hired by the City. He shall report to the City Manager. The Airport Director's duties include, but are not limited to:

1. Develop and implement policies and procedures related to airport operations, safety and maintenance, drafts and revises airport policy and procedure manuals regarding emergency procedures, minimum safety standards and operating procedures in accordance with FAA operation rules.

2. Coordinates the development and negotiation of airport leases, contracts and agreements, including those with private companies, commercial air carriers and government agencies for the rental of airport facilities including hangars, building space, airport service and concessions.

3. Initiates the FAA grant priorities and monitors the major construction resulting from those grant projects. Plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment and infrastructure of the airport, including airport development and improvement projects.

4. Supervises and monitors use of the airport facilities by tenants, concessionaires and patrons, including ground operations, passenger and baggage screening, emergency operations, maintenance and related activities. Supervises grounds and facilities maintenance, coordination of improvements or changes to facilities or equipment. Inspects airport grounds, facilities and equipment, and notes maintenance needs, safety hazards and other problems, initiates corrective action and follows-up as necessary.

5. Interprets flight safety and other flight and airport use regulations for the public, enforces airport regulations and assures compliance with a variety of local, State, and Federal laws and regulations related to airport operations.

6. Assesses a variety of emergency situations requiring airport closure or altered operations, such as snow-plowing, ice removal or other extreme weather conditions, bomb threats, fire, crashes or other emergencies, coordinates fire, crash and rescue procedures.

SECTION 3. Rules and Regulations

All aeronautical activities at the airport, all operation and flying of aircraft at the airport, and all business and other activities on the airport shall be conducted in conformity with these rules and regulations, and all amendments, supplements, attachments, changes, and additions hereto which may hereafter be adopted by the City Council, and further in conformity with all pertinent rules, regulations, orders and rulings of the F.A.A., which are made a part of these rules by this reference. Provided, however, that nothing herein contained shall affect or impair any existing agreement. In the event of any conflict between these rules and regulations and any law, rule, regulation or order of the F.A.A. or other governmental agency exercising the same or similar jurisdiction, the latter shall prevail.

SECTION 4. Special Events

Special events, such as air shows, air races, fly-ins, sky diving and all events requiring the general use of the airport, other than normal or routine airport traffic, shall be held only upon the prior approval of the Airport Director, and on such dates, in such areas and upon such terms and conditions as shall be specified by the Airport Director.

SECTION 5. Public Use

The airport shall be open for public use at all hours of the day, subject to regulation or restriction due to conditions of the landing area, the presentation of special events and like causes, as may be determined by the Airport Director and revocation of the right to use for violation of these rules and regulations as herein provided.

SECTION 6. Common Use Area

All runways for landing and take-off, all, all runway markers, guidance, signal, and beacon light used to guide operating aircraft, and wind information, for signaling, for radio-direction finding, or for any other structure, equipment or mechanism having a similar purpose for guiding or controlling flight in the air or landing and take-off of aircraft, and together with such aprons, ramps, turn-offs, taxiways, tie down areas and other areas of the airport as the airport director shall specify or designate as common use areas available for use, in common, by all persons flying or operating aircraft on the airport and shall be kept clear and available for aircraft traffic. No person or entity shall use any common use area for the parking or storing of inoperative aircraft, the repair, servicing, or fueling of aircraft or for any other purpose other than the flying and operation of aircraft without the prior consent and authorization of the Airport Director. Common use areas shall be subject to change by the Airport Director.

SECTION 7. Vehicular Traffic

The traffic laws of the City shall apply to the streets, roads, and parking areas on the airport, unless restricted by the Airport Director. Vehicular access to aircraft in the General Aviation area is permitted for the purpose of loading and unloading only. Except for firefighting equipment, ambulances, emergency vehicles, and aircraft maintenance vehicles, no person shall take or drive any vehicle on the airport, other than on established streets, roads and automobile parking facilities, unless permission has been first obtained from the Airport Director.

SECTION 8. Advertising

No signs or other advertising shall be placed on constructed upon the airport without the prior approval of the Airport Director. Any building, structure or improvement must also

obtain prior approval of the Airport Director.

SECTION 9. Acceptance of Rules By Use

The use of the airport or any of its facilities in any manner shall constitute an assumption by the user of these rules and regulations and shall create an obligation on the part of the user to abide by and obey these rules and regulations.

SECTION 10. Operators to Keep Rules Available

All persons licensed to do business on or conduct operations of any kind on the airport shall keep a current copy of these rules and regulations in its office or place of business and make it available to all persons.

CHAPTER II

AIRPORT OPERATIONS AND AIRPORT TRAFFIC

SECTION 1. General

1. Every person operating an aircraft shall comply with and operate such aircraft in conformity with these Rules and Regulations, and all pertinent rules, regulations, or orders of the FAA.

2. The taxing, traffic, and landing rules will be managed by the Elko Regional Airport Control Tower, if operating.

3. In the event any aircraft is wrecked or damaged to the extent that it cannot be moved under its own power, the Airport Director shall be immediately notified by the pilot. Subject to governmental investigations and inspection of the wreckage, the owner or pilot of the wrecked or damaged aircraft, must obtain the necessary permission for the removal of the aircraft and shall promptly remove such aircraft and debris from all landing areas, taxiways, ramps, tie-downs areas, and all other traffic areas. The owner or pilot must place or store the aircraft in an area designated by the Airport Director. In the event the owner of the aircraft fails for any reason to comply with this regulation, the Airport Director may cause the removal and storage, or disposal of such wrecked or damaged aircraft at the expense of the aircraft owner.

SECTION 2. Ground Rules

1. No person shall park, store, tie-down, or leave any aircraft on any area of the airport other than that designated by the Airport Director, or his duly authorized agent.

2. No aircraft shall be parked or stored at the Elko Regional Airport unless it is

properly tied down and secured in place. It shall be the sole responsibility of the aircraft owner or pilot to tie down or secure said aircraft at all times required by these rules and regulations or as requested by the Airport Director. Owners of all aircraft shall be held solely responsible for any damage or loss resulting from the failure of such owner or pilot of such aircraft to comply with this rule.

3. No person shall take or use any aircraft anchoring or tie-down facilities when said facilities are already in use by another person.

4. All repairs to aircraft or engines shall be made in the spaces or areas designated for this purpose by the Airport Director and not on any part of the landing area, taxiways, ramps, fueling, or service areas of a fixed base operator, unless mutually agreed upon by the fixed base operator and the Airport Director. Prior approval for minor repairs to aircraft located on parking areas may be obtained from the Airport Director.

5. No aircraft engine shall be started on an aircraft unless a competent operator is in control of the aircraft and the parking brakes have been set or the wheels have been set with blocks that are equipped with ropes or other suitable means for removing said blocks.

6. No aircraft engine shall be started, run, or run-up, unless the aircraft is in such a position that the propeller or jet blast clears all hangars, shops, or other buildings, persons, other aircraft, vehicles, and the flight and taxi path of other aircraft.

SECTION 3. Fire Regulations

1. No aircraft shall be fueled or drained while the engine is running, or while in a hangar or other enclosed area. Fueling shall be done in such a manner and with such equipment that adequate connections for bonding for static electricity shall be continuously maintained during fueling operations.

2. All persons using, in any way, the airport area or the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property.

3. No person shall smoke or ignite any matches, flares, lighters, or other objects of which produce an open flame anywhere within a hangar, shop, building or flammable structure in which any aircraft is or may be stored, or in which any gas, oil or flammable substance is stored or within 50 feet of any aircraft or any fueling facilities.

CHAPTER III

AIRPORT OPERATORS, LEASES, AND CONCESSIONS

SECTION 1. Business Activities.

Subject to applicable orders, certificates or permits of the Federal Aviation Administration, or its successors, no person shall use the airport, or any portion thereof, or any of its improvements or facilities for revenue producing commercial, business, or aeronautical activities, who has not first complied with these rules and regulations and obtained the consent and all appropriate permits and licenses for such activities from the City Council and entered into such written leases and other agreements prescribed by the City Council, or agreed upon by the City Council and such person or business entity.

SECTION 2. Application.

Applications for leases of ground on the airport, or for permission to carry on any commercial, business or aeronautical activity on the airport, with the necessary permits and licenses, shall be made to the Airport Director. This includes, but is not limited to Request for Proposals. The Airport Director shall present the application to the City Council by at least its next regular meeting. The City Council may, if it deems it advisable, have a public hearing upon the application. The applicant shall submit all information and material necessary, or requested by the RFP or the City Council, to establish to the satisfaction of the City Council that the applicant can qualify and will comply with these rules and regulations. The application shall be signed and submitted by every party owning an interest in the business, those who will be managing the business, every partner of a partnership, and each Director, and officer of a corporation.

SECTION 3. Action on Application.

The City Council may deny any application if, in its opinion, it finds any one or more of the following:

1. The applicant, for any reason, does not meet the qualifications, standards and requirements established by these rules and regulations; or
2. The applicants proposed operations or construction will create a safety hazard on the airport; or
3. The granting of the application will require the City to spend City funds, or to supply labor or materials in connection with the proposed operations to an extend which or at a time the City Council is unwilling to enter into such arrangement; or the operation will result in a financial loss to the City: or

4. There is no appropriate, adequate or available space or building on the airport to accommodate the entire activity of the applicant at the time of the application; or

5. The proposed operation or airport development or construction does not comply with the master plan of the airport; or

6. The development or use of the area requested by the applicant will result in depriving existing fixed base operators of portions of the area in which they are operating; or will result in a congestion of aircraft or buildings; or will result in unduly interfering with the operations of any present fixed base operator on the airport through problems in connection with aircraft traffic or service, or preventing free access to the fixed base operators area; or

7. Any party applying or interested in the business has supplied the City Council with any false information or has misrepresented any material fact in his application or in supporting documents; or has failed to make full disclosure on his application; or in supporting documents; or

8. Any party applying, or interested in the business has a record of violating these rules and regulations, or the rules and regulations of any other airport, or the Federal Aviation Regulations, or any other rules and regulations applicable to the Elko Regional Airport.

9. Any party applying, or interested in the business has defaulted in the performance of any lease or other agreement with the City of Elko, or

10. Any party applying, or interested in the business has a credit report which contain derogatory information and does not appear to be a person of satisfactory business responsibility and reputation; or

11. The applicant does not appear to have, or have access to the finances necessary to conduct the proposed operation for a minimum of six months; or

12. Any party applying, or interested in the business has been convicted of any crime or violation of any City ordinance of such a nature that it indicates to the City Council that the applicant would not be a desirable operator on the Elko Regional Airport;

13. The protection of the health, welfare, or safety of the inhabitants of the City of Elko requires such denial.

14. Nothing contained herein shall be construed to prohibit the City Council from

granting or denying, for any reason it deems sufficient, an application to do business on the airport for the purpose of selling, furnishing or establishing non-aviation products and supplies or any service or business of a non-aeronautical nature, or the application by a person for an area on the airport for the personal non-profit use of such person.

SECTION 4. Supporting Documents

If requested by the City Council, the applicant shall submit the supporting documents itemized in an Appendix (if applicable) to the City Council, together with such other documents and information as may be requested by the City Council.

SECTION 5. Airport License and Leases Non-Transferable

No right, privilege, permit or license to do business on the Elko Regional Airport, or any lease of any area of the airport shall be assigned, sold, or otherwise transferred or conveyed in whole or part without the prior express consent of the City Council.

SECTION 6. Tie-down Rates

Daily and Monthly tie down rates shall be administered by the Airport Director.

SECTION 7. Refuse

No person shall throw, dump, or deposit any waste, refuse or garbage on the Elko Regional Airport. All waste, refuse, or garbage shall be placed and kept in closed garbage cans or containers and all operating areas shall be kept in a safe, neat, clean, and orderly manner at all times, and in such a manner as to minimize any hazards.

SECTION 8. Approval of Construction

No buildings, structures, tie-downs, ramps, paving, taxi areas, or any other improvement or addition on the airport shall be placed or constructed on the airport or altered or removed without the prior approval of the City Council *and/or Airport Director*. In the event of any construction, the City Council may, in its discretion, require the appropriate bond to guarantee the completion of the construction in accordance with City Council approval.

SECTION 9. Operation Area.

No person authorized to operate on or conduct business activities on the airport shall conduct any of its business or activities on any area except those specified by the City

Council, or the Airport Director, and the leased areas.

SECTION 10. Fixed Base Operator

No person shall use the Elko Regional Airport as a fixed base operator until such person has applied for and received from the City Council a fixed base operator's license and has met the qualifications, standards and requirements of these rules and regulations. These standards, requirements, rules and regulations pertaining to FBOs, and a list of the services of a fixed base operator is contained in the Elko Regional Airport's Minimum Standard Requirements for Airport Aeronautical Services.

SECTION 11. Waiver of Chapter III

The City Council may in its discretion, waive all or any of Chapter III, or the requirements listed in the Appendix (if applicable), for the benefit of any Government or Government Agency or Department or person performing non-profit public services to the aircraft industry, or performing air search and rescue operations, or performing fire prevention or firefighting operations.

SECTION 12. Business Name

No person shall conduct business operations on the airport under a business name the same as or deceptively similar to the business name of any other fixed base operator.

SECTION 13. Damage Repair by The City

Nothing contained in these rules and regulations shall be construed as requiring the City to maintain, repair, restore or replace any structure, improvement or facility which is substantially damaged or destroyed due an act of God or other condition or circumstance beyond the control of the City.

CHAPTER IV **PENALTIES**

SECTION 1. General

In addition to any penalties otherwise provided by City Ordinance, law, the F.A.A., or other governmental agency, any person violating or failing or refusing to comply with these rules and regulations or those issued by the Airport Director may be promptly removed or ejected from the airport by or under the authority of the Airport Director. Upon the order of the City Council or Airport Director, such person may be deprived of further use of the airport

and its facilities pending appeal or presentation of the matter to the City Council.

SECTION 2. Appeals

Such matters shall be presented to the City Council as expeditiously as practicable. By request of the City Council, the accused violator will be asked to show cause for reinstatement of airport use.

SECTION 3. Enforcement

In addition to any civil or criminal penalties, upon order of the City Council, such person may be deprived of further use of the airport and its facilities for such time as may be deemed necessary and appropriate by the City Council to insure the safeguarding of the airport, its operations, the public use thereof and the City's interest therein.

CHAPTER V

GOVERNMENT AGREEMENTS

SECTION 1. War or National Emergency

During time of war or national emergency the City shall have the right to lease the airport, or the landing areas, or any part thereof to the United States Government for military use, and any license or authority granted under these rules and any lease and agreement executed pursuant hereto shall be subject to such government lease and the provision of the government lease.

EXHIBIT D

Additional Terms Required
by FAA Safety/Compliance Inspector

1. The Lessee, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in the attached Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

2. The Lessee, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the Lease and to reenter and repossess said land and the facilities thereon and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Lessee shall furnish its accommodations and/or services on a fair, equal and no unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the Lessor shall have the right to terminate this Lease and the estate hereby created without liability therefor or at the election of the Lessor or the United States. Either or both said governments shall have the right to judicially enforce such provisions.

6. Lessee agrees that it shall insert the above five provisions in any Lease agreement, contract, etc. by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.

7. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. The Lessee assures that it will require that its covered sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR 152, Subpart E, to the same effort.

8. The Lessor reserves the right to further develop or improve the landing area of the Elko Regional Airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

9. The Lessor reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the Elko Regional Airport and all publicly-owned facilities of the Elko Regional Airport, together with the right to direct and control all activities of the Lessee in this regard.

10. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the development, operation or maintenance of the Elko Regional Airport.

11. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or

operation on the Elko Regional Airport.

12. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

13. The Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation of 5,075 feet. In the event the aforesaid covenants are breached, the Lessor reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

14. The Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from, or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Lessee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. This Lease and all provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of or the exclusive or non-exclusive use of the Elko Regional Airport by the United States during the time of war or national emergency.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible termination of the Memorandum of Understanding (MOU) between the City of Elko, and Friends in Service Helping (F.I.S.H.), a Nevada Non-Profit Corporation for the implementation of Elko Policy, Procedure, and Action Plan for the Extreme Cold Weather Shelter, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Due to the COVID-19 Pandemic, the F.I.S.H. Agency is not equipped to safely operate nor staff the shelter. F.I.S.H. Chairman Robert Leonhardt has submitted a letter and a copy of has been placed in the packet for your review. CC**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **A Letter has been submitted by Robert Leonhardt, Chairman Friends in Service Helping Agency; A Copy of the MOU between the City of Elko and F.I.S.H.**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Scott Wilkinson, Assistant City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Robert Leonhardt
Chairman, Friends in Service Helping
821 Walnut Street
Elko, NV 89801

Tel: (775)738-3038
Fax: (775) 777-1175**

**“Renewed Hope, Dignity
& Self-Sufficiency”**



September 21, 2020

City of Elko

Curtis Calder, City Manager

1751 College Avenue

Elko, NV 89801

Dear Curtis Calder,

The Friends In Service Helping Board of Directors has met and come to the difficult decision to terminate the Memorandum of Understanding for the Extreme Cold Weather Shelter. Due to the COVID-19 pandemic our agency is not equipped to safely operate this nor staff the shelter.

We appreciate the partnership and continued support from the City of Elko.

Regards,

Robert Leonhardt

Chairman

Friends In Service Helping

821 Water Street
Elko, Nevada 89801

Tel: {775} 738-3038
Fax: {775} 777-1175
Web: www.fishelko.org

Make A Difference
Leave a Legacy

MEMORANDUM OF UNDERSTANDING FOR IMPLEMENTATION
OF CITY OF ELKO POLICY, PROCEDURE AND ACTION PLAN
FOR EXTREME COLD WEATHER

This Memorandum of Understanding for Implementation of City of Elko Policy, Procedure and Action Plan for Extreme Cold Weather (hereinafter "MOU") made and entered into between the City of Elko, a municipal corporation and political subdivision of the State of Nevada, and Elko F.I.S.H., a Nevada Non-Profit Corporation (hereinafter F.I.S.H.) this 15th day of November, 2016

MOU purpose and objective. The purpose of this MOU is to implement the City of Elko Policy, Procedure and Action Plan for Extreme Cold Weather (hereinafter the "EWP"), adopted by the Elko City Council. This MOU is intended to coordinate public and private resources when outside temperatures pose an immediate danger to life and health of unsheltered people within the City. The MOU objective is to safeguard the lives of vulnerable individuals by providing shelter in the two interior rooms to the left of the main entrance at the F.I.S.H. property located at 729 Douglas Street, Elko, Nevada (hereinafter the "0° Emergency Shelter") during inclement weather conditions.

MOU activation and deactivation.

- A. **Activation.** This MOU shall be activated when the City, in its discretion, declares an Extreme Cold Weather Emergency (ECWE). Ordinarily, an ECWE will be declared when the outside temperature is projected to drop to 0 degrees Fahrenheit or below, by ambient measures or wind-chill measures. The City will endeavor to declare an ECWE during early morning business hours in an effort to provide F.I.S.H. appropriate time for staffing the facility. The City, in its discretion, may declare an ECWE to remain in effect for a duration of time extended over a period of time (days) during extensive episodes of cold weather. The duration of time may be extended regardless of short periods of time in which outside the temperature rises to 1 degree Fahrenheit or above. Upon declaration of an ECWE, this MOU will automatically be in effect, with no further action required by the City or F.I.S.H., to provide shelter services.
- B. **Deactivation.** This MOU shall be automatically deactivated when the outside temperature rises to 1 degrees Fahrenheit or above unless the City, in its discretion, has declared an ECWE for an extended period of time. Notwithstanding deactivation due to temperature increases, no person sheltered overnight at a temporary cold weather shelter pursuant to this MOU shall be asked or required to leave the Emergency Shelter before 8:00 a.m. without good cause.
- C. **Temperature Readings.** Temperature readings, for purposes of this MOU, shall be according to the National Weather Service (NWS) Weather Station Elko 0.9 SE, Elko, Nevada. In the event the foregoing weather station is offline, temperature readings from the NWS weather stations located 12 miles north of Elko or at Ryndon/Devil's Gate may be utilized.

i. **Cold Weather Protocols.**

A. **City Functions and Services.** The City will perform the following functions and services in cooperation with F.I.S.H.:

- (1) Declare an ECWE;
- (2) Provide transportation to the Emergency Shelter;
- (3) Provide cots to the Emergency Shelter for temporary use by F.I.S.H. during the ECWE; and
- (4) Remove cots from the Emergency Shelter following the ECWE.

B. **F.I.S.H. Functions and Services.** F.I.S.H. may, in its discretion, operate the Emergency Shelter during an ECWE for the safety and protection of vulnerable homeless people in compliance with all applicable laws and ordinances then in effect; *provided*, in the event F.I.S.H. decides to operate the Emergency Shelter, the facility must comply with the following conditions:

- (1) Ensure that all doors leading into the Emergency Shelter are capable of being locked for the protection of occupants;
- (2) Ensure that the balance of the facility is secured.
- (3) Provide at least two persons to be present at the Emergency Shelter at all times during the ECWE to provide security and otherwise ensure that the purposes of this MOU are being satisfied;
- (4) Provide at least one operational bathroom facility, with a toilet and sink;
- (5) Provide at least two unobstructed means of ingress and egress from all sleeping areas;
- (6) Provide readily-accessible and operational fire extinguishers in sufficient quantities and locations to extinguish any fires;
- (7) There must be adequate lighting, to include emergency lighting;
- (8) Procure, when possible, adequate shelter for pets;
- (9) Secure personal belongings of people utilizing the Emergency Shelter;
- (10) Provide food and water to people utilizing the Emergency Shelter where the ECWE is longer than 8 hours in duration;
- (11) Provide operational smoke detectors in all sleeping areas;
- (12) Facilitate the procurement and oversight of volunteers to assist with the operation of the Emergency Shelter;
- (13) Ensure that security personnel and volunteers have access to cell phones; and
- (14) Ensure that people utilizing the Emergency Shelter do not smoke or consume alcohol on the premises.

Term. This MOU shall remain in effect until notice of termination is provided by either party to the other party; *provided*, a notice of termination must be in writing, must be authorized by the Elko City Council for the City or the Board of Directors for F.I.S.H. and must be given no less than thirty (30) days in advance.

5. **Notices.** Notice shall be made by depositing in the United States mail in Elko, Nevada, postage prepaid, addressed as follows:

If to the City: City of Elko
Attn: City Manager
1751 College Avenue
Elko, Nevada 89801

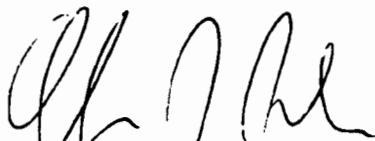
If to F.I.S.H.: Elko F.I.S.H.
Attn: Sherry Smith
821 Water Street
Elko, Nevada 89801

Changes in the foregoing addresses may be made by either party; *provided*, notice of a change of address shall be provided no less than fifteen (15) days in advance.

6. **Interpretation.** This MOU is not a contract, nor does it create any enforceable legal rights in favor of or against either party hereto, nor are there any third party beneficiaries hereto, intended or otherwise. In no event may this MOU be used in support of any claim or action, whether administrative, civil, criminal, legal, equitable or otherwise. This MOU serves no purpose other than to outline a mechanism by which the City and F.I.S.H. may cooperate in an effort to provide emergency services to vulnerable homeless people during extreme cold weather.

IN WITNESS WHEREOF, this MOU has been executed on the date first above written.


CITY OF ELKO

By: 
CHRIS J. JOHNSON, MAYOR

TEST:

y: 
SHANELL OWEN, CITY CLERK

ELKO F.I.S.H.

A handwritten signature in cursive script, appearing to read "Sherry Smith".

SHERRY SMITH, EXECUTIVE DIRECTOR

**MEMORANDUM OF UNDERSTANDING FOR IMPLEMENTATION
OF CITY OF ELKO POLICY, PROCEDURE AND ACTION PLAN
FOR EXTREME COLD WEATHER**

This Memorandum of Understanding for Implementation of City of Elko Policy, Procedure and Action Plan for Extreme Cold Weather (hereinafter "MOU") made and entered into between the City of Elko, a municipal corporation and political subdivision of the State of Nevada, and Elko F.I.S.H., a Nevada Non-Profit Corporation (hereinafter F.I.S.H.) this 10 day of December, 2013.

1. **MOU purpose and objective.** The purpose of this MOU is to implement the City of Elko Policy, Procedure and Action Plan for Extreme Cold Weather (hereinafter the "EWP"), adopted by the Elko City Council. This MOU is intended to coordinate public and private resources when outside temperatures pose an immediate danger to life and health of unsheltered people within the City. The MOU objective is to safeguard the lives of vulnerable homeless individuals by providing shelter at a location in Elko, Nevada approved by the City of Elko (hereinafter the "Emergency Shelter") during inclement weather conditions.
2. **MOU activation and deactivation.**
 - A. **Activation.** This MOU shall be activated when the City, in its discretion, declares an Extreme Cold Weather Emergency (ECWE). Ordinarily, an ECWE will be declared when the outside temperature drops to 0 degrees Fahrenheit or below, by ambient or wind-chill measures. Upon declaration of an ECWE, this MOU will automatically be in effect, with no further action required by the City or F.I.S.H., to provide shelter services.
 - B. **Deactivation.** This MOU shall be automatically deactivated when the outside temperature rises to 1 degrees Fahrenheit or above. Notwithstanding deactivation due to temperature increases, no person sheltered overnight at a temporary cold weather shelter pursuant to this MOU shall be asked or required to leave the Emergency Shelter before 8:00 a.m. without good cause.
 - C. **Temperature Readings.** Temperature readings, for purposes of this MOU, shall be according to the National Weather Service (NWS) Weather Station Elko 0.9 SE, Elko, Nevada. In the event the foregoing weather station is offline, temperature readings from the NWS weather stations located 12 miles north of Elko or at Ryndon/Devil's Gate may be utilized.
3. **Cold Weather Protocols.**
 - A. **City Functions and Services.** The City may, in its discretion, declare an ECWE.

B. **F.I.S.H. Functions and Services.** F.I.S.H. may, in its discretion, operate the Emergency Shelter during an ECWE for the safety and protection of vulnerable homeless people in compliance with all applicable laws and ordinances then in effect; ***provided***, in the event F.I.S.H. decides to operate the Emergency Shelter, the facility must comply with the following conditions:

- (1) Ensure that all doors leading into the Emergency Shelter are capable of being locked for the protection of occupants;
- (2) Provide at least one person to be present at the Emergency Shelter at all times during the ECWE to provide security and otherwise ensure that the purposes of this MOU are being satisfied;
- (3) Provide at least one operation bathroom facility, with a toilet and sink;
- (4) Provide at least two unobstructed means of ingress and egress from all sleeping areas;
- (5) Provide readily-accessible and operational fire extinguishers in sufficient quantities and locations to extinguish any fires;
- (6) There must be adequate lighting, to include emergency lighting;
- (7) Provide adequate shelter for pets;
- (8) Secure personal belongings of people utilizing the Emergency Shelter;
- (9) Provide food and water to people utilizing the Emergency Shelter where the ECWE is longer than 8 hours in duration;
- (10) Provide operational smoke detectors in all sleeping areas;
- (11) Facilitate the procurement and oversight of volunteers to assist with the operation of the Emergency Shelter;
- (12) Ensure that security personnel and volunteers have or access to cell phones; and
- (13) Ensure that people utilizing the Emergency Shelter do not smoke or consume alcohol on the premises.

4. **Term.** This MOU shall remain in effect until notice of termination is provided by either party to the other party; ***provided***, a notice of termination must be in writing, must be authorized by the Elko City Council for the City or the Board of Directors for F.I.S.H. and must be given no less than thirty (30) days in advance.

5. **Notices.** Notice shall be made by depositing in the United States mail in Elko, Nevada, postage prepaid, addressed as follows:

If to the City:
Attn: City Manager
1751 College Avenue
Elko, Nevada 89801

City of Elko

If to F.I.S.H.:
Attn: Susan Martsoff
821 Water Street
Elko, Nevada 89801

Elko F.I.S.H.

Changes in the foregoing addresses may be made by either party; ***provided***, notice of a change of address shall be provided no less than fifteen (15) days in advance.

6. **Interpretation.** This MOU is not a contract, nor does it create any enforceable legal rights in favor of or against either party hereto, nor are there any third party beneficiaries hereto, intended or otherwise. In no event may this MOU be used in support of any claim or action, whether administrative, civil, criminal, legal, equitable or otherwise. This MOU serves no purpose other than to outline a mechanism by which the City and F.I.S.H. may cooperate in an effort to provide emergency services to vulnerable homeless people during extreme cold weather.

IN WITNESS WHEREOF, this MOU has been executed on the date first above written.

CITY OF ELKO

By: 


CHRIS J. JOHNSON, MAYOR

ATTEST:

By: 

SHANELL OWEN, CITY CLERK

ELKO F.I.S.H.


**SUSAN MARTSOFF, EXECUTIVE
DIRECTOR**

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a Performance/Maintenance Agreement for subdivision improvements associated with the Aspen Heights Subdivision, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **Elko City Code 3-3-21 requires the subdivider to have executed and filed an agreement between the subdivider and the City for the required subdivision improvements, including stipulations on the timeframe for when those improvements are to be completed, and to post a performance guarantee in accordance with Elko City Code 3-3-22.**

Final Map 3-20 was approved by the City Council on July 14, 2020. At that time, a Performance and Maintenance Agreement was entered into by the original property owner/developer. Since then, the property has been sold to a new developer (Braemar Construction). Due to this change in ownership, a new Performance and Maintenance Agreement is needed. MR
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Performance/Maintenance Agreement**
9. Recommended Motion: **Approve the Performance/Maintenance Agreement for subdivision improvements associated with the Aspen Heights subdivision and require that the developer enter into the agreement within 30 days.**
10. Prepared By: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **David Stanton, City Attorney**
12. Council Action:
13. Council Agenda Distribution: **Braemar Construction, LLC
Attn: Dusty Shipp
717 W. Idaho Street
Elko, NV 89801**

AGREEMENT TO INSTALL IMPROVEMENTS
AND PROVIDE MAINTENANCE GUARANTY

THIS AGREEMENT made and entered into this 13th day of October, 2020, by and between the **CITY OF ELKO**, a municipal corporation organized and existing under the laws of the State of Nevada, hereinafter referred to as the "**City**," and **Braemar Construction, LLC**, a Nevada Limited Liability Company, hereinafter referred to as "**Developer**."

RECITALS

- A. WHEREAS, Developer** is subdividing certain property within the **City**, the subdivision being generally known as **Aspen Heights**, into nine (9) separate parcels by means of a subdivision map, identified by the **City** as Final Map No. 3-20;
- B. WHEREAS**, Elko City Code, Title 3, Chapter 3, requires that a developer of a subdivision (as that term is used in NRS 278.320(1)) enter into an Agreement to Install Improvements;
- C. WHEREAS**, the **City** has approved the Engineer's Cost Estimate for the required subdivision improvements (set forth in **Exhibit A** and made a part hereof) and has determined that the cost of the required subdivision improvements is expected to be in the amount of **Three Hundred Fifty-Two Thousand, Thirty-Eight Dollars and Zero Cents (\$352,038.00)**, which amount provides the basis for calculating the amount of the Maintenance Guaranty;
- D. WHEREAS**, the Developer intends to complete the required subdivision improvements with its own resources pursuant to Elko City Code Section 3-3-21(A)(3)(a) and 3-3-22(A)(1), and in conformity with the construction plans approved by the City (attached as **Exhibit B** and made a part hereof) prior to certification of the final map;
- E. WHEREAS**, Elko City Code 3-3-21(A)(4) requires that all subdivision improvements identified in the agreement to install improvements shall be completed within a specified period, not to exceed two (2) years, to the satisfaction of the City;
- F. WHEREAS**, the **City** approved the Final Map on July 14, 2020;
- G. WHEREAS**, the land containing the Aspen Heights subdivision was purchased by Braemar Construction, LLC, after the Performance and Maintenance Agreement was entered into by the prior developer;
- H. WHEREAS**, all terms and conditions of the previous Performance and Maintenance Agreement have been included in this Agreement;
- I. WHEREAS**, pursuant to Elko City Code Section 3-3-22(B)(3), the **Developer** shall file with the Clerk of the City a maintenance guaranty to ensure the maintenance, adequacy and condition of all improvements required by this Agreement for a period of one (1) year after the subdivision improvements are accepted by the City. The maintenance guaranty may be in any form permitted in Section 3-3-22(B)(1) for a performance guaranty and shall be in the amount of **Thirty-Five Thousand, Two Hundred and Three Dollars and Eighty Cents (\$35,203.80)** (hereinafter referred to as the "Maintenance Guaranty");

- J. **WHEREAS**, in the event the **Developer** fails to complete all the required subdivision improvements in accordance with the terms of this Agreement, the **Developer** shall be in default of this Agreement and the **City** shall be entitled to pursue all available legal remedies.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions on the part of the respective parties to be performed, the parties hereby agree as follows:

1) **REQUIRED IMPROVEMENTS, CERTIFICATION, MAINTENANCE GUARANTY, AND ACCEPTANCE AND CERTIFICATION OF THE FINAL MAP**

- A. **COMPLETION OF WORK AND MAINTENANCE GUARANTY.** **Developer** agrees to complete the improvements shown on the construction plans attached as **Exhibit B** hereto in the manner set forth in this Agreement and in conformity with Elko City Code 3-3-21(A)(4) (requiring the improvements to be completed to the satisfaction of the City) (hereinafter the "**Work**") within twenty-four (24) months of the Effective Date, unless otherwise extended in accordance herewith, and **Developer** shall pay or cause to be paid all claims for labor and materials used to perform the **Work**. During the construction of the subdivision improvements, the **Developer** may, at its option, guarantee performance of the remaining subdivision improvements with a performance guaranty that conforms to ECC Sections 3-3-21(A)(3)(b) and 3-3-22.

B. ENGINEER'S ESTIMATE, CERTIFICATION AND SUBMISSION OF WORK.

1) **Developer** agrees to, at its own expense, contract with a licensed engineer in the State of Nevada to oversee the construction of the subdivision improvements, oversee all required testing and verification of materials to ensure construction of the subdivision improvements in accordance with all federal, state and local requirements and provide an engineer's estimate, which must be approved by the City. The total engineer's estimate must be an amount no less than the full cost of the following improvements: (a) improvements required under Section 3-3-20 of the Elko City Code; (b) improvements shown on the construction plans prepared and approved in accordance with Section 3-3-18 of the Elko City Code; (c) the cost of required inspection and testing by a properly licensed engineer to oversee the quality assurance and quality control necessary to ensure certification for the construction of the approved construction plans; (d) the cost to replace any existing streets, utilities or other improvements that are included in the required improvements as shown on the construction plans; (e) the cost to prepare the as-built drawings and any associated documents; and (f) incidental expenses associated with the foregoing **Work**.

2) The **Work** shall be certified by the **Developer's** Engineer (who shall be a registered engineer, licensed in the State of Nevada) and submitted to the **City** for possible acceptance of the **Work** before the **City** conducts the subdivision final inspection and no later than twenty-four (24) months after the Effective Date. Upon certification of the **Work**, the **Developer's** Engineer shall provide the **City** with a certificate attesting to the adequacy of the **Work** and compliance with all requirements set forth in this Agreement, to include, without limitation, the construction specifications, codes and standards set forth in the Orange Book.

3) The certification by the **Developer's** engineer shall include: (a) the results of all required testing, presented in an organized manner by material type and category of work; (b) references to the sections of the Orange Book that correspond to the required testing for the material type and category of work; (c) the frequency of the required testing; (d) photo documentation for any components of the **Work** which cannot be certified by testing (i.e. special construction of utility crossings); and (e) an "as-built" drawing of the **Work**.

4) The City Council shall not accept the **Work** without a complete and comprehensive certification of the **Work** by the **Developer's** engineer.

C. MAINTENANCE PERIOD. Notwithstanding the Term of this Agreement, the maintenance period shall commence on the date the City Council accepts the **Work** and shall continue thereafter for a period of twelve (12) months. In satisfaction of its requirement to provide a Maintenance Guaranty, **Developer** shall, prior to acceptance of the **Work**, in conformance with Elko City Code 3-3-22(B)(3), provide the **City** with a Maintenance Guaranty in a form that complies with Elko City Code Section 3-3-22(B) in the amount of **Thirty-Five Thousand, Two Hundred and Three Dollars and Eighty Cents (\$35,203.80)**, which amount is not less than ten percent (10%) of the total cost of the required subdivision improvements. If maintenance is required during the maintenance period, the **City** will provide fifteen (15) calendar days' written notice of the required maintenance work to the **Developer** and the **Developer** must thereafter complete the required maintenance work. If the **Developer** fails to complete the maintenance work within the fifteen (15) calendar day period, without limiting any other rights or remedies available, the **City** may complete or have the maintenance work completed and use the Maintenance Guaranty to satisfy the costs thereof. The certification of the Final Map is, without limitation, conditioned upon **Developer** providing the Maintenance Guaranty.

D. CERTIFICATION OF FINAL MAP. The **City** will not certify the Final Map until:

- 1) The Agreement has been approved by the City Council in conjunction with Final Map approval;
- 2) The Agreement has been fully executed and filed with the City Clerk's office;
- 3) The **Developer** has completed the **Work** as required under the Agreement, or a performance guaranty that complies with ECC Sections 3-3-21(A)(3)(b) and 3-3-22 has been posted with the Elko City Clerk for the remaining **Work**;
- 4) The **Developer** has filed with the Elko City Clerk the Maintenance Guaranty, calculated in the manner set forth herein and otherwise meeting the requirements of this Agreement and the Elko City Code;
- 5) The City Council has accepted the subdivision improvements, or a performance guaranty that complies with ECC Sections 3-3-21(A)(3)(b) and 3-3-22 has been posted with the Elko City Clerk for the remaining **Work**;
- 6) The **Developer** has acquired all other jurat certifications required by the Nevada Revised Statutes, the Elko City Code and this Agreement; and

- 7) All other Final Map requirements set forth in the Nevada Revised Statutes and the Elko City Code have been met.

E. EFFECTIVE DATE. The Effective Date of this Agreement shall be July 14, 2020, which is the date the **City** approved the Final Map, and this Agreement shall operate retroactively to that date, except where otherwise specifically stated herein.

F. TERM. The Term of this Agreement shall be twenty-four (24) months from the Effective Date, unless the **Work** is completed and accepted by the **City** prior to the expiration of the foregoing twenty-four (24) month period, in which event the Term shall expire on the date the **Work** is accepted by the **City**. Notwithstanding the foregoing, the **City** may, upon a written request and showing by the **Developer** of good cause, grant an extension of time to complete the **Work** for an additional twelve (12) months thereafter (with a corresponding extension of the Term); **provided**, no such extension shall be given unless: (a) the **Developer** has satisfactorily performed its duties under this Agreement to date; (b) the **Developer** has diligently and in good faith attempted to complete the **Work** within the aforementioned twenty-four (24) month period, but has been unable to do so due to events beyond the **Developer's** control; and (c) the Maintenance Guaranty has been provided to the Elko City Clerk.

G. DESCRIPTION OF WORK AND CONDITIONS. In addition to any other requirements contained herein, the **Work** shall not be accepted by the **City** unless the **Developer** fully satisfies the following requirements:

(1) COMPLIANCE WITH CITY CODE. **Developer** shall perform the **Work** in a manner that fully complies with the Elko City Code.

(2) STANDARDS. The **Work** shall be completed in accordance with the plans, specifications and conditions approved by the **City** and in accordance with requirements otherwise set forth in this Agreement, to include requirements incorporated by reference.

(3) PRECONSTRUCTION CONFERENCE. Prior to the initiation of the construction of any roadway, drainage, water or sewer improvements included in the **Work**, the **Developer** shall schedule and participate in a preconstruction conference with **Developer's** contractor(s) and the City Development Manager or the **City's** designee(s).

(4) AS-BUILT PLANS. **Developer** shall provide complete as-built drawings of all street, water, sewer and drainage improvements to the **City** prior to the subdivision final inspection.

(5) SUBDIVISION CONDITIONS. **Developer** shall satisfy all subdivision approval conditions established by or at the direction of the City Council and/or the City Planning Commission.

(6) ENGINEER'S CERTIFICATE. Before the subdivision final inspection, **Developer's** engineer (who shall be a registered engineer, licensed in the State of Nevada) shall provide the **City** with a certificate certifying the adequacy of the **Work** and compliance with all requirements set forth in this Agreement, to include,

without limitation, **City** standard construction specifications, codes and standards.

- H. FINAL COMPLETION AND ACCEPTANCE OF WORK.** Approval of the final completion and acceptance of the **Work** shall be at the discretion of the **City**. The **Work** shall not be accepted unless and until it satisfies the requirements of this Agreement, to include the conditions set forth in Section 1 (**REQUIRED IMPROVEMENTS, CERTIFICATION, MAINTENANCE GUARANTY, ACCEPTANCE AND CERTIFICATION OF THE FINAL MAP**). **Developer** shall request that the **City** inspect the **Work** no later than thirty (30) days prior to the end of the Term. The **City** shall have the authority to suspend the **Work**, in whole or in part, for such period as it may deem necessary due to unsuitable weather or other unfavorable conditions or the failure of **Developer** to comply with the requirements contained in this Agreement, to include compliance with the standard construction specifications of the **City**.
- I. DEFAULT, NOTICE AND OPPORTUNITY TO CURE.** In the event **Developer** fails to complete the **Work** during the Term of this Agreement or any extension hereof, the **Developer** shall be considered in **Default**. Upon discovery of the **Default**, the **City** shall serve upon the **Developer** written notice of such **Default**. **Developer** shall then have fifteen (15) days from the date of mailing of said notice in which to cure the **Default**. In the event of a **Default**, should the **Developer** fail to cure the **Default** within fifteen (15) days from the date of notice, the **City** shall then have the right to complete the **Work**, to include, without limitation, payment of all third-party claims for labor and material, after which the **Developer** shall be liable to the **City** for all costs incurred in completing the **Work**, such amount to be due and payable within thirty (30) days of receipt of an itemized invoice from the **City** detailing the costs incurred by the **City**. In the event **Developer** fails to reimburse the **City** for the costs shown on the foregoing invoice, the **City** may thereafter exercise all rights and remedies available at law and equity.

2. GENERAL TERMS AND CONDITIONS.

- A. WARRANTY.** **Developer** warrants to the **City** that the **Work**, upon completion, will be free of defects and in conformity with all applicable standards, to include requirements of the Elko City Code and any plans approved by the **City** pertaining to the **Work**.
- B. TERMINATION, BINDING EFFECT, DELEGATION AND OTHER MATTERS.** This Agreement may not be amended, modified or terminated except by an agreement in writing and approved by the **Developer** and the Elko City Council. This Agreement and all of the covenants, terms, conditions and/or provisions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding any other provision contained in this Agreement, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated by any party without the prior written consent of the other party. This Agreement is not intended to confer any rights or benefits to any entity other than to the **City** and to **Developer**; accordingly, there are no third-party beneficiaries to this Agreement.
- C. CONSTRUCTION OF AGREEMENT.** This Agreement constitutes a contract under and shall be construed in accordance with the laws of the State of Nevada. Both parties have had the opportunity to review this Agreement with the assistance of legal counsel. Accordingly, the parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

- D. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall have the force and effect of an original, and all of which shall constitute but one document.
- E. NOTICES.** All notices required to be given under this Agreement shall be deemed given upon the earlier of the actual receipt or two (2) days after being mailed by registered or certified mail, return receipt requested, addressed as follows: if to **City**, to c/o Michele Rambo, (or the then-current) Development Manager, 1751 College Avenue, Elko, Nevada 89801; if to **Developer**, to: Dusty Shipp, Braemar Construction, LLC, 717 W Idaho Street, Elko, NV 89801.
- F. CITY'S AUTHORITY.** This Agreement is not intended to supersede the authority granted by law to the **City**. Therefore, nothing in this Agreement shall be construed or implied to require the **City's** planning or other regulatory boards or departments (however designated) to approve any plans, permits, maps or other documents pertaining to any aspect of the **Work** or other action described in this Agreement.
- G. TIME OF THE ESSENCE.** Time is of the essence and a material provision of this Agreement.
- H. INDEMNIFICATION.** **Developer** hereby agrees to hold harmless, indemnify and defend the **City** (including, without limitation, the **City's** officers, agents and employees) against and to all claims, demands, actions, suits, liability, cost and expense, including defense expenses, (to include, without limitation, suits for damages and injuries to persons or property) that are claimed to have resulted from the acts or omissions of **Developer** (including without limitation its agents, employees and/or contractors) in any manner pertaining to the **Work**.
- I. JURISDICTION AND VENUE.** The District Court for the Fourth Judicial District, in and for the County of Elko, State of Nevada, shall have jurisdiction and venue over all disputes arising from or in relation to this Agreement.
- J. INTEGRATION.** This Agreement represents and contains the entire Agreement and understanding among the parties with respect to the subject matter of this Agreement and supersedes and replaces all prior oral and written agreements and understandings with respect to the subject matter of this Agreement, and no representation, warranty, condition, understanding or agreement of any kind with respect to the subject matter hereof shall be relied upon by the parties unless incorporated herein. This Agreement shall be construed as a complete novation of any prior agreements relating to the subject matter of this Agreement.
- K. DOCUMENTS PROVIDED TO CITY ARE PUBLIC.** This Agreement, together with any documents associated with the **Work**, may be recorded in any public system of records, to include the records of the Elko County Recorder. Under no circumstances shall **Developer** assert a right to confidentiality or an intellectual property interest in documents or other information provided to the **City** in relation to the **Work**.
- L. ATTORNEY FEES.** In the event the **City** is required to pursue any action to enforce any term or condition in this Agreement, it shall be entitled to reasonable attorney's fees and court costs.
- M. SEVERABILITY.** In the event one or more of the provisions, or portions thereof, of this Agreement is determined to be illegal or unenforceable, the remainder of the Agreement shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

N. HEADINGS. The headings of sections and subsections of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction hereof.

O. NO AGENCY, PARTNERSHIP OR JOINT VENTURE. Nothing herein contained shall be construed to create an agency, partnership or joint venture between the parties.

P. REMEDIES NOT EXCLUSIVE. No remedy provided by this Agreement, to include the right to make a claim against a bond or other guaranty, shall be exclusive. The **City** shall have the right to pursue any remedies provided under this Agreement, or by law or equity, simultaneously or in sequence at its sole discretion.

Q. PERFORMANCE GUARANTY IS NOT EQUIVALENT TO ACCEPTANCE OF THE WORK. Developer acknowledges that posting a performance guaranty for the remaining **Work** does not constitute acceptance of the subdivision improvements by the **City**. City Council acceptance and the beginning of the maintenance period will only occur once all subdivision improvements have been completed, have been certified by the project engineer of record, and have been inspected and approved by all appropriate **City** departments.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate the day and year first above written.

CITY - THE CITY OF ELKO, a municipal corporation

DEVELOPER – BRAEMAR CONSTRUCTION, LLC

By: _____
REECE KEENER, Mayor

By: _____

Its: _____

ATTEST:

KELLY WOOLDRIDGE, City Clerk

EXHIBIT A

ASPEN HEIGHTS SUBDIVISION

Construction Estimate
May 18, 2020

ITEM	DESCRIPTION	UNIT PRICE	UNIT	QTY	EXTENSION
Mobilization					
1	Mobilization	\$ 5,000.00	L.S.	1	\$ 5,000.00
2	Erosion Control	2,500.00	L.S.	1	2,500.00
3	Traffic Control	1,000.00	L.S.	1	1,000.00
Removals					
4	Clearing & Grubbing	1,500.00	Acre	2.70	4,050.00
5	Cut Existing AC Pavement	1.50	L.F.	366	549.00
6	Remove Existing AC Pavement	2.00	S.F.	364	728.00
Earthwork					
7	Unclassified Excavation	3.00	C.Y.	3,370	10,110.00
8	Unclassified Embankment	4.00	C.Y.	1,530	6,120.00
9	Export Material	5.00	C.Y.	1,540	7,700.00
Sanitary Sewer					
10	48" Type 1 Sanitary Sewer Manhole	4,000.00	Each	2	8,000.00
11	8" SDR-35 PVC Sewer	40.00	L.F.	217	8,680.00
12	4" Sanitary Sewer Service	2,000.00	Each	9	18,000.00
Storm Sewer					
13	Modified Sidewalk Cross Drain	1,000.00	Each	1	1,000.00
14	Property Line Ditch	25.00	L.F.	336	8,400.00
15	Seepage Beds	100.00	C.Y.	40	4,000.00
Water					
16	8" Class 235 PVC Water	40.00	L.F.	244	9,760.00
17	6" Class 235 PVC Water	55.00	L.F.	24	1,320.00
18	Fire Hydrant	3,500.00	L.F.	1	3,500.00
19	1" Water Service	2,200.00	Each	9	19,800.00
20	12"x8" Tapping Sleeve	2,500.00	Each	1	2,500.00
21	8" Tapping Valve	2,500.00	Each	1	2,500.00
22	8"x6" Reducer	500.00	Each	1	500.00
23	6" Gate Valve	750.00	Each	1	750.00
24	6" 45° Bend	500.00	Each	1	500.00

ASPEN HEIGHTS SUBDIVISION

Construction Estimate May 18, 2020

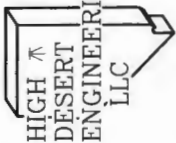
ITEM	DESCRIPTION	UNIT PRICE	UNIT	QTY	EXTENSION
Surfacing					
25	Type 2, Class B, Aggregate Base	40.00	C.Y.	505	20,200.00
26	Type 2 Curb & Gutter	25.00	L.F.	769	19,225.00
27	Type 2 Curb & Gutter w/ Apron	25.00	S.F.	582	14,550.00
28	6' Valley Gutter	10.00	S.F.	222	2,220.00
29	4" Sidewalk	5.50	S.F.	3,107	17,088.50
30	3" Plantmix Bituminous Surface	2.50	S.F.	15,218	38,045.00
31	Seal Coat	0.15	S.F.	15,218	2,282.70
Miscellaneous					
32	Class A Monument	500.00	Each	1	500.00
33	Street Light Bases	1,500.00	Each	2	3,000.00
Public Utilities					
34	Electric	35,000.00	L.S.	1	35,000.00
35	Telephone	5,000.00	L.S.	1	5,000.00
36	Television	3,000.00	L.S.	1	3,000.00
37	Natural Gas	10,000.00	L.S.	1	10,000.00
Construction Sub-Total					\$ 297,078.00
Davis Bacon Wage Rates		15.0%	L.S.		44,562.00
Construction Engineering		3.5%	L.S.		10,398.00
Construction Total					\$ 352,038.00

EXHIBIT B

TWO DAYS BEFORE YOU DIE
 CALL USA TOLL FREE
 1-800-227-2600

SCOTT REUTNER PROPERTIES, LLC
1770 SHARPS ACCESS ROAD
ELKO, NEVADA 89801
CONTACT: SCOTT REUTNER (775) 753-5100

HIGH DESERT ENGINEERING, LLC
540 IDAHO STREET
ELKO, NEVADA 89801
(775) 738-4053



APPROVED
CITY OF ELKO DEVELOPMENT DEPT.
[Signature]
06/02/2020

CONSTRUCTION DRAWINGS

- | | | |
|---|---------------------------------------|----------------|
| 1 | PLAN & PROFILE | CELTIC WAY |
| 2 | PLAN & PROFILE | STARLET CIRCLE |
| 3 | PLAN & PROFILE | PROPERTY LINE |
| 4 | PLAN & PROFILE | DITCH |
| 5 | GRAVING & DRAINAGE PLAN | |
| 6 | EROSION CONTROL PLAN | |
| 7 | SITE DETAILS | |
| 8 | WATER SYSTEM & UTILITY LAYOUT DETAILS | |
| 9 | SEWER SYSTEM DETAILS & UTILITY NOTES | |

1	FINAL MAP - SHEET 1 OF 2
2	FINAL MAP - SHEET 2 OF 2

LEGEND:

[illegible][illegible][illegible]



[illegible]

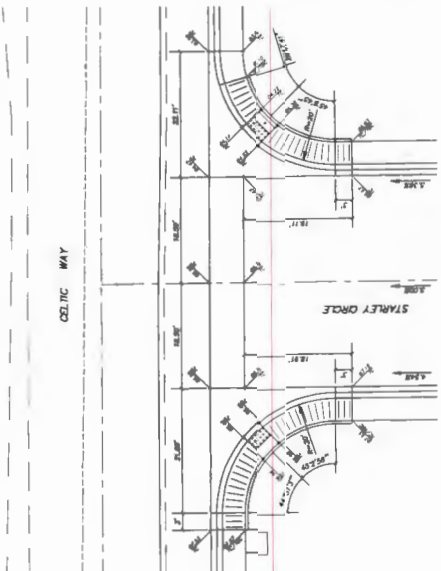
GRADING & DRAINAGE NOTES:

- [illegible]

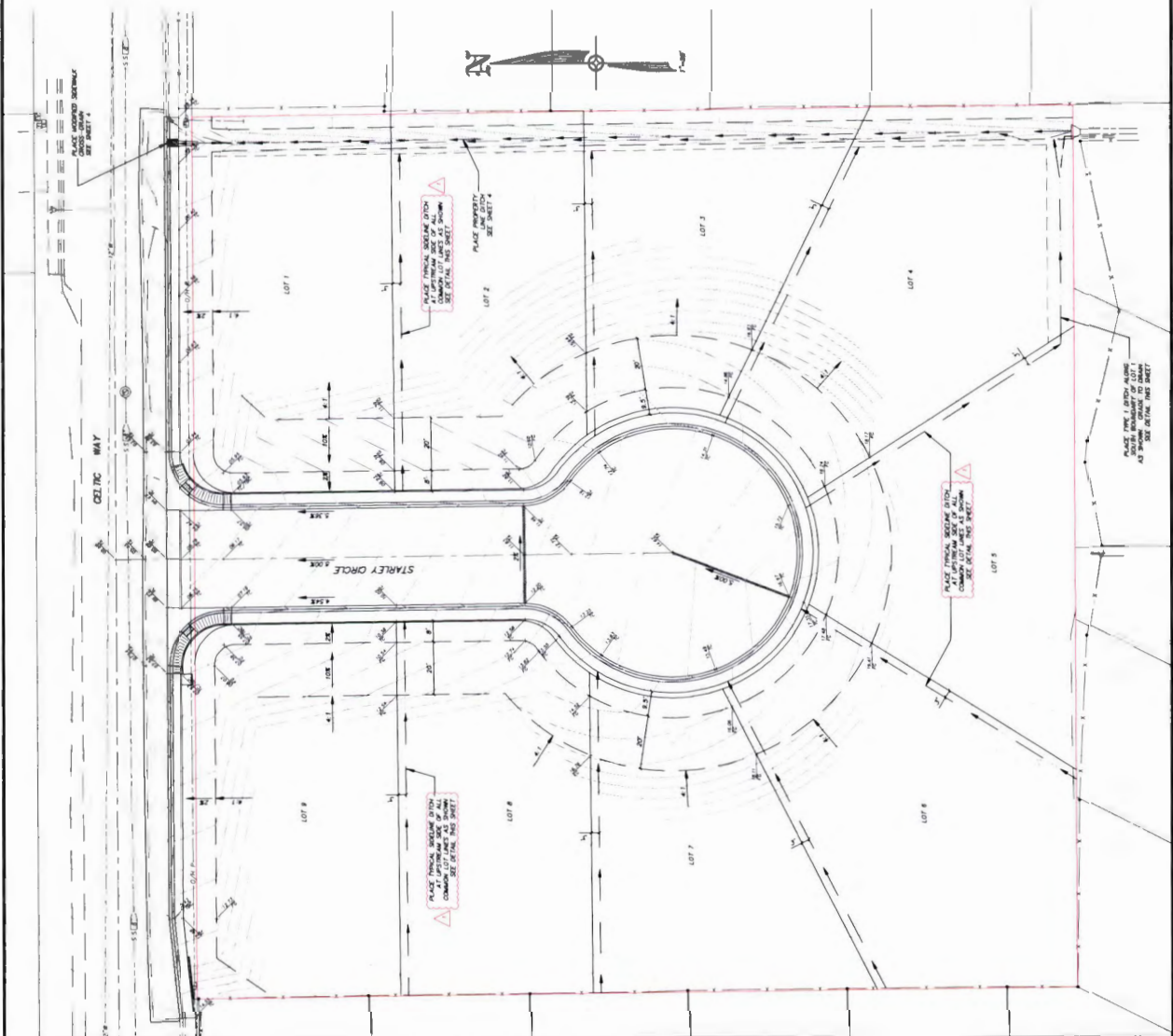
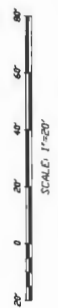


TYPE ! DRAINAGE DITCH

— SIDE LINE DITCH DETAIL



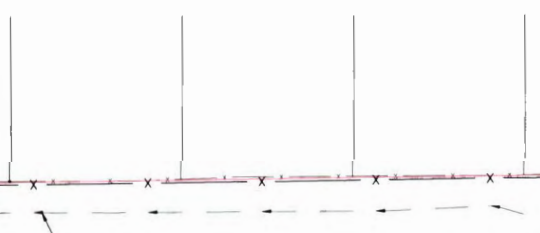
INTERSECTION HANDICAP RAMP DETAIL



[illegible]

100

-
- PLATE IRON RAILS
CONNECTED TO RAILWAY
(R/W 30' x 11')
- N
1-20



VALLEY GUTTER INTERSECTION

NOTES:

- VALLEY GUTTER SHALL BE CONSTRUCTED WITH 12" MIN. THICK CONCRETE ON 4" MIN. THICK GRANULAR FILL.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.

TYPICAL PATCH FOR FLEXIBLE PAVEMENT

NOTES:

- PATCH SHALL BE 12" WIDE AND 12" DEEP.
- PATCH SHALL BE 12" WIDE AND 12" DEEP.
- PATCH SHALL BE 12" WIDE AND 12" DEEP.
- PATCH SHALL BE 12" WIDE AND 12" DEEP.
- PATCH SHALL BE 12" WIDE AND 12" DEEP.

PCV VALLEY GUTTER

NOTES:

- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- VALLEY GUTTER SHALL BE 12" WIDE AND 12" DEEP.

STREET NAME SKIN

NOTES:

- STREET NAME SKIN SHALL BE 12" WIDE AND 12" DEEP.
- STREET NAME SKIN SHALL BE 12" WIDE AND 12" DEEP.
- STREET NAME SKIN SHALL BE 12" WIDE AND 12" DEEP.
- STREET NAME SKIN SHALL BE 12" WIDE AND 12" DEEP.
- STREET NAME SKIN SHALL BE 12" WIDE AND 12" DEEP.

TYPE 1 CURB RAMP

NOTES:

- CURB RAMP SHALL BE 12" WIDE AND 12" DEEP.
- CURB RAMP SHALL BE 12" WIDE AND 12" DEEP.
- CURB RAMP SHALL BE 12" WIDE AND 12" DEEP.
- CURB RAMP SHALL BE 12" WIDE AND 12" DEEP.
- CURB RAMP SHALL BE 12" WIDE AND 12" DEEP.

TYPE 2 CURB & GUTTER

NOTES:

- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.

TYPE 2 CURB & GUTTER

NOTES:

- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.
- CURB & GUTTER SHALL BE 12" WIDE AND 12" DEEP.

PCV JUNCTION DETAILS

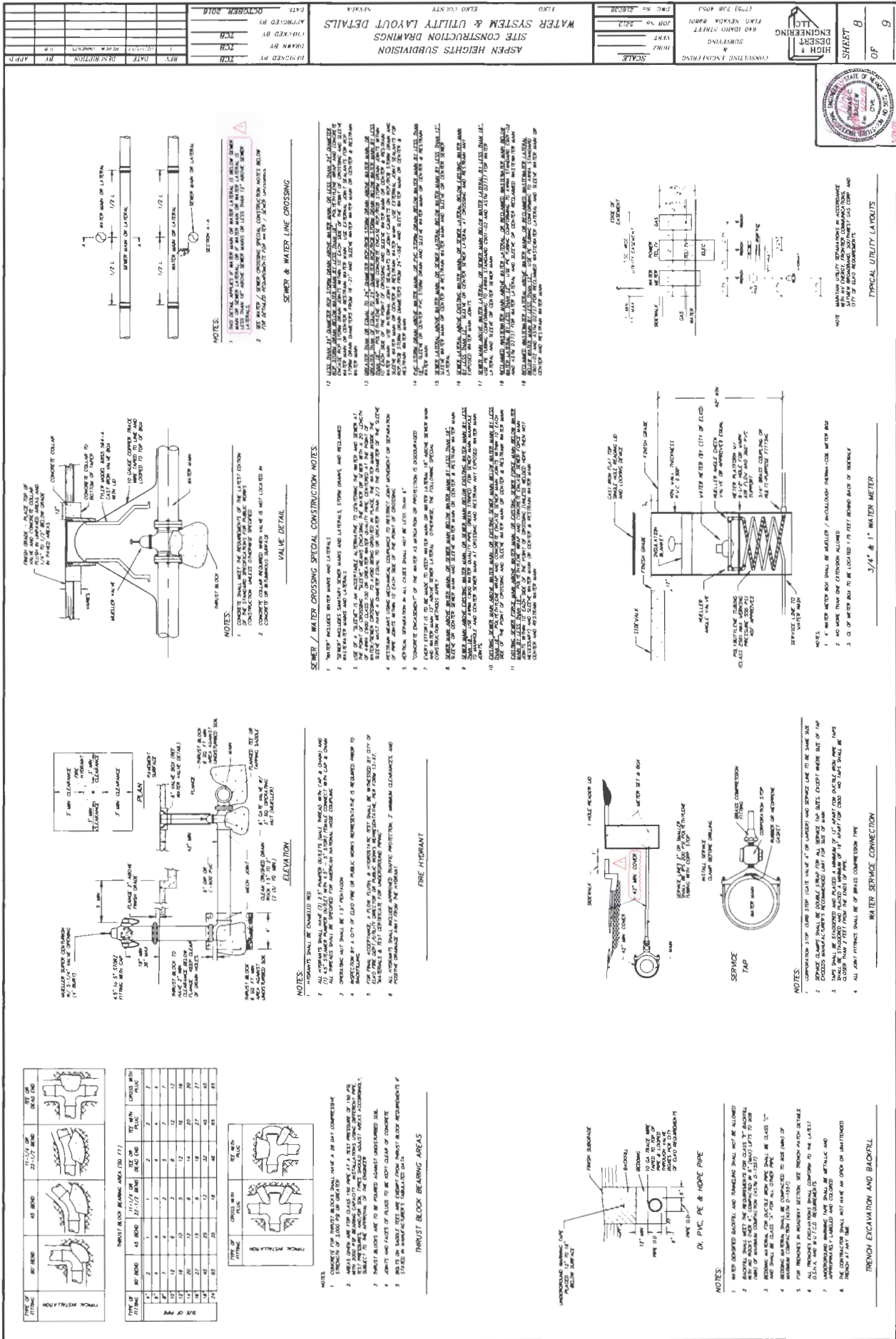
NOTES:

- JUNCTION SHALL BE 12" WIDE AND 12" DEEP.
- JUNCTION SHALL BE 12" WIDE AND 12" DEEP.
- JUNCTION SHALL BE 12" WIDE AND 12" DEEP.
- JUNCTION SHALL BE 12" WIDE AND 12" DEEP.
- JUNCTION SHALL BE 12" WIDE AND 12" DEEP.

GLASS A MONUMENT

NOTES:

- GLASS A MONUMENT SHALL BE 12" WIDE AND 12" DEEP.
- GLASS A MONUMENT SHALL BE 12" WIDE AND 12" DEEP.
- GLASS A MONUMENT SHALL BE 12" WIDE AND 12" DEEP.
- GLASS A MONUMENT SHALL BE 12" WIDE AND 12" DEEP.
- GLASS A MONUMENT SHALL BE 12" WIDE AND 12" DEEP.



**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to conditionally approve Parcel Map No. 8-20, filed by Gallagher Family Trust, for the merger of two parcels into one, approximately 4.896 acres, located generally on the north side of 30th Street between Idaho Street and Norco Lane with offer of dedication for Norco Lane Right-of-Way, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **The Planning Commission considered this item at its October 6, 2020 meeting, and took action to forward a recommendation of conditional approval Parcel Map 8-20. The Parcel Map contains an offer of dedication for Right-of-Way, and it is for this reason that the map was referred to the Planning Commission, and subsequently to Council. CL**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Map, P.C. Action Report, Staff reports and related correspondence**
9. Recommended Motion: **Conditionally approve Parcel Map No. 8-20 subject to the conditions as recommended by the Planning Commission.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review: **Planning Commission**
12. Council Action:
13. Agenda Distribution: **Gallagher Family Trust
Casey Gallagher
650 30th Street
Elko, NV 89801
ctgalla@gmail.com**



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of October 6, 2020

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on October 6, 2020 per Section 3-3-24 H. 2. of City Code:

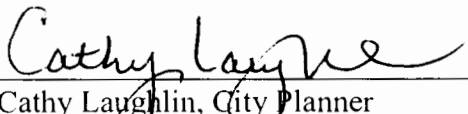
Parcel Map 8-20, filed by Gallagher Family Trust. The parcel map creates one parcel from two existing parcels and contains an offer of dedication for right-of-way for a portion of Norco Lane. Due to the dedication, it is referred to the Planning Commission with recommendation to the City Council, and matters related thereto.

The parcel map creates one parcel from two parcels owned by the applicant, Gallagher Family Trust. The map will be dedicating a portion of Norco Lane to the City of Elko..

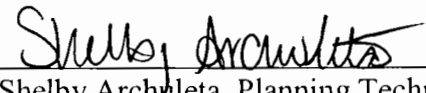
WHEREAS, the Planning Commission, upon review and consideration of the application and supporting data, public input and testimony, forward a recommendation to City Council to conditionally approve Parcel Map No. 8-20 subject to the conditions from the Staff Report dated September 22, 2020, listed as follows:

1. Prior to map recordation, a note shall be added to the map requiring the completion of sidewalk improvements along 30th Street with any future development or site improvement.
2. The Parcel Map shall be recorded by Elko County within two (2) years of this approval.
3. Revise the Parcel Map to show original property lines prior to City sign-off.

The Planning Commission's findings to support its recommendation are the parcel map conforms with the City of Elko Master Plan Transportation and Land Use Components, the City of Elko Wellhead Protection Plan, and City of Elko Code Sections 2-13-3, 3-2-4, 3-2-10(B), 3-8, and 3-3-24, and 3-3-28.


Cathy Laughlin, City Planner

Attest:


Shelby Archuleta, Planning Technician

CC: Applicant
Michele Rambo, Development Manager (via email)
Kelly Wooldridge, City Clerk

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 10/6

Do not use pencil or red pen, they do not reproduce

Title: Parcel map 8-20

Applicant(s): Gallagher Family Trust

Site Location: 650 30th Street - APN 001-560-045

Current Zoning: C Date Received: 9/15 Date Public Notice: N/A

COMMENT: This is to combine Parcels A+C of File # 202347 and Exhibits A+B of File # 335918 into one parcel, with a dedication to Norco Lane.

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 9/23/20

Recommend approval as presented
by staff

SAW

Initial

City Manager: Date: 9/23/20

No comments/concerns.

CC

Initial



CITY OF ELKO
DEVELOPMENT DEPARTMENT
1755 COLLEGE AVENUE
ELKO, NEVADA 89801
(775)777-7210
(775)777-7219 FAX

To: Cathy Laughlin, City Planner
From: Michele Rambo, AICP, Development Manager
Re: Parcel Map 8-20, 30th/Norco, Gallagher Ford
Date: September 22, 2020

The City of Elko, Development Department has reviewed the proposed parcel map under existing conditions. Applicable Master Plan Sections, Coordinating Plans, and City Code Sections are:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Code – Section 2-13-3 Sidewalk, Curb and Gutter Construction
- City of Elko Code – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Code – Section 3-2-10 (B) General Commercial
- City of Elko Code – Section 3-8 Flood Plain Management
- City of Elko Code – Section 3-3-24 Parcel Maps
- City of Elko Code – Section 3-3-28 Mergers and Resubdivision of Land



The City of Elko, Development Department finds the parcel map is in general compliance with the above referenced Master Plan Components and Sections of City Code. The parcel map was evaluated based on the existing conditions and current development of the property.

BACKGROUND INFORMATION

1. The proposed map is merger of two parcels, Parcels A and C of Parcel Map 202347 into one new parcel.
2. The proposed parcel has an area approximately 4.90 acres
3. The area is zoned (C) General Commercial.
4. The property is currently developed with a car dealership.
5. The area lies at the northwest corner of 30th Street and Norco Lane.
6. Public improvements appear to be in place along both frontages with the exception of sidewalk along a portion of 30th Street near the southeast corner of the site.

MASTER PLAN:

Land Use:

- The land use is identified as Commercial General.
- The General Commercial zoning district is a corresponding district for this Master Plan designation.
- Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.

Transportation:

- The proposed parcel has access to Idaho Street via 30th Street.
- Access to the property will be from existing points on 30th Street and Norco Lane.

ELKO REDEVELOPMENT PLAN:

- The property is not located within the Redevelopment Area.

ELKO WELLHEAD PROTECTION PLAN:

- The majority of the property falls within the 20-year capture zone, while a small portion falls within the 30-year capture zone. Any new buildings constructed on the site will be required to tie into existing sewer lines located in 30th Street or Norco Lane.

SECTION 2-13-3 SIDEWALK, CURB AND GUTTER CONSTRUCTION

- This section of code states sidewalks, curbs, and gutters shall be required on all vacant lots or parcels of land which are hereafter ... merged or divided.
- Curb, gutter, and sidewalk are in place along both frontages, with the exception of sidewalk along a portion of 30th Street near the southeast corner of the site. A condition of approval has been added requiring this portion of sidewalk be installed with any future development or site improvement.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS

- Section 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS states that no yard or lot area can be reduced below the minimum requirements set forth in Title 3 (zoning).
- The proposed parcel conformed to the minimum requirements.

Section 3-2-10 (B) GENERAL COMMERCIAL:

- Compliance with this section of code is required.

SECTION 3-8 FLOODPLAIN MANAGEMENT:

- The site is located outside of any flood hazard area.
- This Parcel Map and any future development of the project site will not increase the potential of flooding above what already exists.

SECTION 3-3-24 PARCEL MAPS

Parcel Maps (A) – The proposed Parcel Map has been submitted as required.

Parcel Maps (B) – Curb, gutter, and sidewalk are in place along both frontages, with the exception of sidewalk along a portion of 30th Street near the southeast corner of the site. A condition of approval has been added requiring this portion of sidewalk be installed with any future development or site improvement.

Parcel Maps (C) – The map includes the dedication of a portion of Norco Lane to the City of Elko. All improvements are in place along the Norco Lane frontage.

Parcel Maps (D) – The map includes the dedication of a portion of Norco Lane to the City of Elko.

Parcel Maps (E) – The map complies with all zoning requirements.

Parcel Maps (F) – No site improvements are proposed at this time.

Parcel Maps (G) – This section does not apply because this is not a subsequent Parcel Map.

Parcel Maps (H) – Application has been made through the Planning Department to be processed as required by this section.

Parcel Maps (I) – No exceptions apply to this site. A Parcel Map is required.

Parcel Maps (J) – A survey was done as part of the Parcel Map preparation.

Parcel Maps (K) – The required filing fee was paid to the Planning Department.

Parcel Maps (L) – All required information has been shown on the Parcel Map.

Parcel Maps (M) – The applicant is responsible for recording the Parcel Map within the required timeframe. A condition of approval has been included.

Parcel Maps (N) – None of the listed prohibitions apply to the proposed Parcel Map.

SECTION 3-3-28 MERGERS AND RESUBDIVISIONS OF LAND

Mergers (A) – All lots are owned by the applicant.

Mergers (B) – The map shall be recorded in accordance with NRS 278.320 - .4725

Mergers (C) – All easements are clearly identified on the map.

Mergers (D) – No security is being held by the city.

RECOMMENDATION

The City of Elko **Development Department** recommends conditional approval of the parcel map with the following conditions.

1. Prior to map recordation, a note shall be added to the map requiring the completion of sidewalk improvements along 30th Street with any future development or site improvement.
2. The Parcel Map shall be recorded by Elko County within two (2) years of this approval.
3. Revise the Parcel Map to show original property lines prior to City sign-off.



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7219 fax

APPLICATION FOR PARCEL MAP APPROVAL

APPLICANT(s):	Gallagher Ford - Casey Gallagher		
MAILING ADDRESS:	650 30th Street		
PHONE NO (Home):	775-738-3147	(Business):	775-738-3147
NAME OF PROPERTY OWNER (If different):	Michael & Tana Gallagher		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:	PO BOX 281366, Lamoille, NV 89828		
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-560-045	Address:	650 30th St, Elko, NV
Lot(s), Block(s), & Subdivision	Parcel A & C of PM 202347 and Exhibit A & B of Vacation Doc. 335918		
Or Parcel(s) & File No.			
APPLICANT'S REPRESENTATIVE OR ENGINEER:	Summit Engineering Corporation		

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. A complete application must include the following:

1. One .pdf of the entire application, and one (1) copy of a 24" x 36" sized parcel map provided by a properly licensed surveyor as well as one (1) set of reproducible plans 8 1/2" x 11" in size of the site drawn to scale showing proposed division of property prepared in accordance with Section 3-3-60 of the Elko City Code along with any supporting data to include:
 - a. Name, address and telephone number of the person who prepared the parcel map.
 - b. Proposed use of each parcel.
 - c. A certificate of execution (signature block) for the Elko City Planning Commission or duly authorized representative.
 - d. Source of water supply and proposed method of sewage disposal for each parcel.
 - e. A copy of all survey computations
 - f. A vicinity map.
2. If the property is improved, a plot plan depicting the existing conditions drawn to scale showing proposed property lines, existing buildings, building setbacks, parking and loading areas and any other pertinent information.

Fee: \$400.00 + \$25.00 per lot for Planning Commission and City Council Review; dedication of street right of way or modification of subdivision ordinance standards or regulations.

\$200.00 + \$25.00 per lot for administrative review only; no dedications or modifications.

Fees are non-refundable.

Other Information: The applicant is encouraged to submit other information and documentation to support this Parcel Map application.

RECEIVED

1. Identify the existing zoning of the property: C - Commercial

2. Explain in detail the type and nature of the use proposed on each parcel: _____

Gallagher Ford automobile dealership

Half street of Norco being dedicated for public road purposes

3. Explain the source of water supply and proposed method of sewerage disposal for each parcel:

City of Elko

This area intentionally left blank

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I acknowledge that, if approved, I must provide an AutoCAD file containing the final lot layout on NAD 83 NV East Zone Coordinate System to the City Engineering Department when requesting final map signatures for recording.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent **Gallagher Ford /Casey Gallagher**
(Please print or type)

Mailing Address **650 30th Street**
Street Address or P.O. Box
Elko, NV 89801
City, State, Zip Code

Phone Number: **775-738-3147**

Email address: **ctgalla@gmail.com**

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 8-20 Date Filed: 9/15/20 Fee Paid: \$425 CV# 82130

KNOWN OF ALL MEN BY THE PRESENTS THAT THE UNDERSIGNED, MICHAEL M. GALLAGHER AND TAMM M. GALLAGHER, AS TRUSTEES OF THE GALLAGHER FAMILY TRUST, DATED NOVEMBER 18, 1988 BEING THE OWNERS OF THE PARCELS SHOWN ON THIS MAP DO HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP. THE PUBLIC UTILITY EASEMENTS SHOWN AND NOTED HEREON ARE HEREBY GRANTED. THE PUBLIC ROADWAYS SHOWN AND NOTED HEREON ARE HEREBY DEDICATED.

MICHAEL M. GALLAGHER AND TAMM M. GALLAGHER, AS TRUSTEES OF THE GALLAGHER FAMILY TRUST,
DATED NOVEMBER 18, 1988.

BY: TAMARA M. CALLAGHER, TRUVEY GJR

STATE OF NEVADA)
COUNTY OF) s.s.

ON _____, 2000, PERSONALLY APPEARED BEFORE ME, A NOTARY PUBLIC, MICHAEL H. GALLAGHER AND TARA H. GALLAGHER, WHO ACKNOWLEDGED THAT THEY EXECUTED THE ABOVE INSTRUMENT.

(SIGNATURE OF NOTARIAL OFFICER)

THIS IS TO CERTIFY THAT FORD MOTOR CREDIT COMPANY, A DELAWARE CORPORATION, CONSENTS TO THE PREPARATION AND RECORDATION OF THIS MAP

BY SEPARATE DOCUMENT BEING RECORDED AS DOCUMENT NO. _____ OFFICIAL
RECORDS OF CLIFT COUNTY, NEVADA (REFERENCE DEED OF TRUST RECORDED APRIL 23, 1988, IN BOOK
1062, PAGE 488, AS DOCUMENT No. 439824)

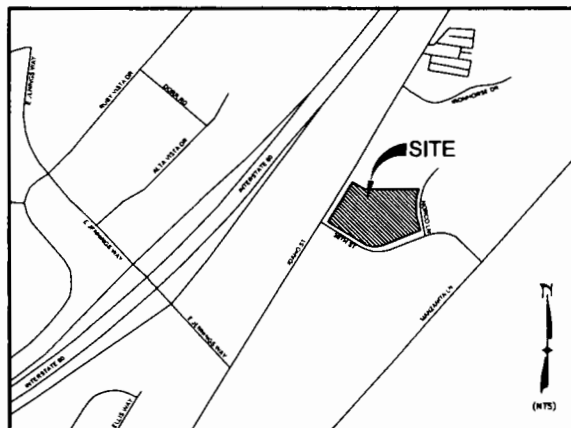
I, JANEY STEINBERG, CERTIFY THAT THE PARCEL SHOWN ON THIS PARCEL MAP IS ASSessor's PARCEL NO. 001-380-040.

U.S. country code: _____

ON THE _____ DAY OF _____ 2000, THIS MAP WAS APPROVED FOR SUBMISSION
PURPOSED PURSUANT TO N.E.S. 278.401 THROUGH 278.406, INCLUDING, AND ALL APPLICABLE LOCAL
ORDINANCES. I AM SURED THAT THIS MAP IS TECHNICALLY CORRECT. THE PUBLIC UTILITY
EASEMENTS SHOWN AND NOTED HEREIN ARE HEREBY GRANTED. THE PUBLIC ROADS/WAYS SHOWN AND
NOTED HEREIN ARE ACCEPTED FOR PUBLIC USE.

[illegible]

NAME OF PERSON OR ENTITY	DATE
...	...



VICINITY MAP
(NOT TO SCALE)

1. I, RYAN S. COOK, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF NEVADA, CERTIFY THAT:

1) THIS PLAN WAS PREPARED AT THE INSTANCE OF CITY OF MICHAEL R BALLAMOR AND TANA M. BALLAMOR

2) THE LANDS SURVEYED LIE WITHIN THE SE 1/4 OF SECTION 11 & THE SE 1/4 OF SECTION 12,
T34N, R09E, S02N, AND THE SURVEY WAS COMPLETED ON 01/20/2020.

3) THIS PLAN COMPLIES WITH THE APPLICABLE STATE STATUTES AND ANY LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL.

4) THE BOUNDARIES ARE OF THE CHARACTER SHOWN, INCLUDING THE POSITIONS INDICATED, AND ARE OF SUFFICIENT QUALITY TO BE USED FOR THE PURPOSES INTENDED.



RYAN & COOK 67 RYAN, G. MEMPHIS FILE FOLDER

- (1) THE TOTAL AREA EQUALS 8131 ACRES.
- (2) THE TOTAL NUMBER OF PARCELS = 1. THE TOTAL PARCEL AREA = 4.906 ACRES.
- (3) THE TOTAL NUMBER OF BENCHMARKS = 11. THE TOTAL BENCHMARK AREA = 2.8264 SQUARE FEET.
- (4) THE NAME OF BUREAU, NATIONAL BUREAU OF LAND SURVEY, SECTION 20, COUNTY 007, STATE OF TEXAS, THE CITY OF EL PASO BOUNDING LATITUDE, LONGITUDE AND CLASSIFIED HORIZON OF MAP IS 30.70717, WITH AN ELEVATION OF 1073.07 FEET. THE BOUNDING LATITUDE, LONGITUDE AND CLASSIFIED HORIZON OF STATE PLANE COORDINATE SYSTEM EAST ZONE AND USED TO BOUNDING SURVEY IS CORNERED 90.10-DEGREE, LONGITUDE OF 106.0000, OFFSHORE COORDINATE SYSTEM OF 106.0000, LONGITUDE AND BOUNDING SURVEY.
- (5) A PUBLIC UTILITY LINES IS BENEATH SHOWN SPECIFICALLY TO MY KNOWLEDGE WITHIN EACH PARCEL, FOR THE EXCLUSIVE PURPOSE OF INSTALLING AND MAINTAINING UTILITY SERVICES FACILITIES TO THAT PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL. THE UTILITY LINES ARE SHOWN SPECIFICALLY TO MY KNOWLEDGE TO THAT PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL, FOR THE PURPOSE OF SERVING ADJACENT PARCELS, AT LOCATIONS WITHIN EACH PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL.
- (6) A PUBLIC UTILITY LINES IS BENEATH SHOWN SPECIFICALLY TO MY KNOWLEDGE AND CORP. WITHIN EACH PARCEL, FOR THE EXCLUSIVE PURPOSE OF INSTALLING AND MAINTAINING UTILITY SERVICES FACILITIES TO THAT PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL. THE UTILITY LINES ARE SHOWN SPECIFICALLY TO MY KNOWLEDGE TO THAT PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL, FOR THE PURPOSE OF SERVING ADJACENT PARCELS, AT LOCATIONS WITHIN EACH PARCEL, WITH THE BOUNDING SURVEY OF THE PARCEL.
- (7) REFERENCE IS MADE TO A MAP 370, FILE IN 37000, STATES THAT THE 100.0000% OF PORTION OF FORMER BARR STREET THAT WAS INCARCINATED IS SUBJECTED TO ALL CHANGING POLICES, LINES, CABLES, PIPES, DRAINAGE, WATERS, AND CEMENTS.



9-14-2020

SEP 15 2020

AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF BLAND, STATE OF MICHIGAN, HELD ON THE

DAY OF _____, 2008. THIS MAP WAS APPROVED FOR
SLEDGEHORN PURPOSES PURSUANT TO S.E.S. 278.061 THROUGH 278.066, INCLUDING, AND ALL
APPLICABLE LOCAL ORDINANCES AT THE TIME OF APPROVAL, AND ANY OFFERS OF DEDICATION SHOWN
HEREON WERE ACCEPTED FOR PUBLIC USE.

SARVE **CAPÉ**

CLERK, ATTORNEY _____ DATE _____

THE UTILITY EASEMENTS SHOWN ON THIS PLAN HAVE BEEN CHECKED, ACCEPTED, AND APPROVED BY THE UNDERSIGNED CABLE TV AND PUBLIC UTILITY COMMISSION.

BY: _____
DATE: _____

ROTHSCHILD BANK CORPORATION	SALE
BY	
FOR	

FROM: _____ DATE: _____

SF: _____

STO MEDIA DATE

I, **CHERYL PANA**, CERTIFY THAT ALL PROPERTY TAXES ON ASSessor's PARCEL No. 001-000-046
HVE BEEN PAID FOR THE FISCAL YEAR OF 2020/2021.

CLARK COUNTY TREASURER	DATE
------------------------	------

FILE NO. _____
FILED AT THE REQUEST OF
SUMMIT ENGINEERING CORP.
DATE: _____, 2020
TIME: _____ M.

ELKO COUNTY RECORDER
MIKE SMALES

MERGER & RESUBDIVISION PARCEL MAP
 FOR
 GALLAGHER FAMILY TRUST,
 DATED NOVEMBER 19, 1998
 OF PARCEL A & PARCEL C OF PM 200247,
 AND EXHIBIT "A" & "B" OF RESOLUTION & ORDER VINCING A
 PORTION OF EDWARD ST, DOCUMENT NO. 330919, BOOK 914 PAGE 37.
 ELKO ELKO COUNTY NEVADA
 SHEET 1
 OF 2

JUL 15 2020

=====

GALLAGHER FORD PM

FILE NAME = N:\DWGS\J82055_GallagherFord\Ph321_PM\GallagherFordBMap

=====

EXTERIOR BOUNDARY

=====

START

	.....	28479308.53	612330.03
INV	N 31°31'50" E 346.34		
	.....	28479603.73	612511.15
INV	S 58°28'10" E 100.00		
	.....	28479551.44	612596.38
INV	S 89°48'36" E 409.21		
	.....	28479550.08	613005.59
RADIUS POINT (NON TANGENT CURVE LEFT)			
	.....	28479414.90	613382.06

41°19'16" DELTA
 400.00 RADIUS
 288.48 LENGTH
 282.26 CHORD
 150.83 TANGENT

TANGENT BRG

	S 19°45'06" W		
	S 21°34'10" E		
P.C. TO P.T.	S 00°54'32" E 282.26		
	.....	28479267.85	613010.07
INV	S 21°34'10" E 20.00		
	.....	28479249.25	613017.42
INV	N 90°00'00" E 0.00		
	.....	28479249.25	613017.42
INV	S 68°25'50" W 301.40		
	.....	28479138.45	612737.13
RADIUS POINT (TANGENT CURVE RIGHT)			
	.....	28479296.54	612674.64

53°06'00" DELTA
 170.00 RADIUS
 157.55 LENGTH
 151.97 CHORD
 84.94 TANGENT

TANGENT BRG

	S 68°25'50" W		
	N 58°28'10" W		
P.C. TO P.T.	N 85°01'10" W 151.97		
	.....	28479151.64	612585.74
INV	N 58°28'10" W 300.00		
	.....	28479308.53	612330.03

AREA 222789.6 SQUARE FEET 5.115 ACRES

TOTAL DISTANCE 1922.98

CLOSING VECTOR S 35°32'26" E 0.009

Closure precision = 1 in 224837

=====

NORCO DEDICATION

=====

START

.....28479550.19 612973.89

INV S 89°48'36" E 31.70

.....28479550.08 613005.59

RADIUS POINT (NON TANGENT CURVE LEFT)

.....28479414.90 613382.06

41°19'16" DELTA

400.00 RADIUS

288.48 LENGTH

282.26 CHORD

150.83 TANGENT

TANGENT BRG

S 19°45'06" W

S 21°34'10" E

P.C. TO P.T. S 00°54'32" E 282.26

.....28479267.85 613010.07

INV S 21°34'10" E 20.00

.....28479249.25 613017.42

INV S 68°25'50" W 50.00

.....28479230.87 612970.93

RADIUS POINT (NON TANGENT CURVE LEFT)

.....28479249.47 612963.57

90°00'02" DELTA

20.00 RADIUS

31.42 LENGTH

28.28 CHORD

20.00 TANGENT

TANGENT BRG

N 68°25'50" E

N 21°34'12" W

P.C. TO P.T. N 23°25'49" E 28.28

.....28479256.82 612982.17

RADIUS POINT (TANGENT CURVE RIGHT)

.....28479414.90 613382.06

39°54'26" DELTA

430.00 RADIUS

299.50 LENGTH

293.48 CHORD

156.11 TANGENT

TANGENT BRG

	N 21°34'12" W			
	N 18°20'14" E			
P.C. TO P.T.	N 01°36'59" W	293.48		
	.....	28479550.19	612973.89	
AREA	9505.3	SQUARE FEET	0.218	ACRES
TOTAL DISTANCE	721.10			
CLOSING VECTOR	S 68°02'27" E	0.002		
Closure precision = 1 in 303530				
=====				
PARCEL 1				
=====				
START				
	.....	28479551.44	612596.38	
INV	S 89°48'36" E	377.51		
	.....	28479550.19	612973.89	
RADIUS POINT (NON TANGENT CURVE LEFT)				
	.....	28479414.90	613382.06	
	39°54'26" DELTA			
	430.00 RADIUS			
	299.50 LENGTH			
	293.48 CHORD			
	156.11 TANGENT			
TANGENT BRG				
	S 18°20'14" W			
	S 21°34'12" E			
P.C. TO P.T.	S 01°36'59" E	293.48		
	.....	28479256.82	612982.17	
RADIUS POINT (TANGENT CURVE RIGHT)				
	.....	28479249.47	612963.57	
	90°00'02" DELTA			
	20.00 RADIUS			
	31.42 LENGTH			
	28.28 CHORD			
	20.00 TANGENT			
TANGENT BRG				
	S 21°34'12" E			
	S 68°25'50" W			
P.C. TO P.T.	S 23°25'49" W	28.28		
	.....	28479230.87	612970.93	
INV	S 68°25'50" W	251.40		
	.....	28479138.45	612737.13	
RADIUS POINT (TANGENT CURVE RIGHT)				
	.....	28479296.54	612674.64	
	53°06'00" DELTA			
	170.00 RADIUS			
	157.55 LENGTH			

151.97 CHORD
84.94 TANGENT

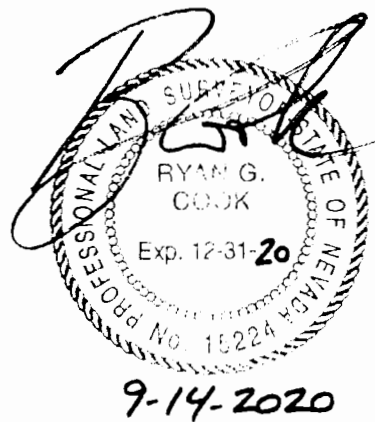
TANGENT BRG

S 68°25'50" W
N 58°28'10" W

P.C. TO P.T. N 85°01'10" W 151.97

	.....	28479151.64	612585.74
INV	N 58°28'10" W	300.00	
	.....	28479308.53	612330.03
INV	N 31°31'50" E	346.34	
	.....	28479603.73	612511.15
INV	S 58°28'10" E	100.00	
	.....	28479551.44	612596.38

AREA 213284.2 SQUARE FEET 4.896 ACRES
TOTAL DISTANCE 1863.71
CLOSING VECTOR S 24°30'41" E 0.007
Closure precision = 1 in 279318



**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to fill a vacancy on the Elko City Planning Commission, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **On September 8, 2020, Council accepted a letter of resignation from Planning Commission member Evi Buell. Staff conducted the standard recruitment process and has received two (2) Letters of Interest to serve on the Planning Commission, copies have been included in the Council packet. The new member will be appointed to fill the remainder of the four-year term, which will expire at the end of July 2023. CL**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Letters of Interest to serve on the Planning Commission**
9. Recommended Motion: **Appoint (insert name) to fill the vacancy on the Elko City Planning Commission with a term expiring July 2023.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Mercedes Mendive
450 Fir Street
Elko, NV 89801
mercedesmendive@aol.com**

**Tony Odeh
393 12th Street
Elko, NV 89801
Tonyodeh.century21@gmail.com**

September 14, 2020

I appreciate the consideration for the open position on the City of Elko Planning Commission.

I am a lifelong resident of a Elko, minus a decade that I spent in Florida for my husbands employment; however, it was so important for me to eventually return to the town I loved. My family and I re-rooted ourselves back in Elko five years ago and we couldn't be happier.

The reason I'm asking to be considered for the planning commission is because Elko matters to me. I think it's important that Elko continues to grow in the best possible way; whether it be new businesses or new subdivisions.

We need responsible people who will put the community of Elko first when making decisions that affect the growth and prosperity of our community, and I would certainly strive to be that person.

Thank you for your consideration,
Kindest Regards,

A handwritten signature in black ink that reads "Mercedes Mendive". The script is cursive and fluid, with the first name "Mercedes" and last name "Mendive" clearly distinguishable.

Mercedes Mendive

Tony

Realtor®

393 12th street
Elko, NV 89801
(775)340-8730

Tonyodeh.century21@gmail.com

My name is Tony Odeh. I was born and raised across seas in a little town named Bethlehem. When I was in fifth grade, my family and I moved to Elko to be closer to family. We also moved to Elko for better opportunities for my parents, and for my brother and I. Life back home was very tough. There were no good paying jobs, we did not have running water for weeks at times, groceries were overpriced, etc. I am delighted we decided to move to little ol' Elko and have now been here fourteen years.

I am eager to potentially serve as a volunteer member of the Elko city planning commission. I am very interested in our local government and feel all citizens should be involved in our community. The more citizens involved, the better it is to work towards an improved quality of life for the people. I am currently self-employed as a realtor at Century 21 Gold West Realty. I love my career and I love communicating with people. As a realtor, my schedule will be open for all meetings that occur every first Tuesday of the month.

I enjoy serving people, I am great at problem solving, and I love the Elko community! I intend to help Elko grow for the good by putting forth my best effort in planning and zoning. I would like to be a part of the impending residential growth and opportunities for businesses to thrive. One of my biggest motivations in life is to be an ethical person and make ethical decisions. It is very important to me to be honest and follow the rules and guidelines.

I have recently been following the Elko city planning commission meetings, reading the agendas and minutes. I am familiar with zoning codes, as it pertains to my job. I am enthusiastic to learn more and join a hard-working team to assist in creating plans for the growth of Elko. An opportunity like this does not come around often and I am ready to take on the roll. I believe in myself and know I have the skills necessary to complete the tasks at hand. If there is an incident where something does not make sense to me, I will communicate with my fellow peers to understand the solution. Communication is key! This prospect will allow me to grow professionally and personally. Thank you for your time. Feel free to contact me at your convenience for any questions or concerns.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to accept a petition for the vacation of a 25' wide public utility easement bisecting APN 001-610-112, consisting of an area approximately 9,944 sq. ft., filed by Grace Baptist Church and processed as Vacation No. 4-20, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **PETITION**
4. Time Required: **10 Minutes**
5. Background Information: **The applicant is in the process of selling the parcel to a developer who would prefer to have the public easement run along the property line. The applicant will be granting a new public utility easement to the City of Elko in lieu of this easement. CL**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Application, Map, and Staff Memo**
9. Recommended Motion: **Accept the petition for vacation and direct Staff to commence the vacation process by referring the matter to the Planning Commission.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Grace Baptist Church
John Ferricks
3030 North Fifth Street
Elko, NV 89801**

tgmd1@citylink.net



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

CITY COUNCIL PETITION DATE:	October 13, 2020
PLANNING COMMISSION DATE:	November 3, 2020
APPLICATION NUMBER:	Vacation 4-20
APPLICANT:	Grace Baptist Church
PROJECT DESCRIPTION:	APN 001-610-112

Vacation of a 25' wide public utility easement bisecting APN 001-610-112



STAFF RECOMMENDATION:

RECOMMEND to ACCEPT petition and refer the matter to the Planning Commission for further consideration.

PROJECT INFORMATION

PARCEL NUMBER: 001-610-112

PARCEL SIZE: 2.756 acres

EXISTING ZONING: (R) Single Family Multiple Family Residential

MASTER PLAN DESIGNATION: (MED- RES) Medium Density Residential

EXISTING LAND USE: Undeveloped

BACKGROUND:

1. The property is currently undeveloped.
2. The easement was granted by Parcel Map File #439506. The map was signed by both Grace Baptist Church and the City of Elko.
3. The easement was designed for public sewer for the parcels to the northwest.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:
North: Agricultural / Undeveloped
East: Residential / Partially developed
South: Residential / Developed
West: Residential / Partially developed

PROPERTY CHARACTERISTICS:

The property is currently undeveloped.
The property has moderate sloping.
The property is lacking public improvements along Dakota Dr. frontage.
The easement doesn't appear to have any public utilities installed within the existing easement at this time.

MASTER PLAN AND CITY CODES:

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive
City of Elko Master Plan – Land Use Component
City of Elko Master Plan – Transportation Component
City of Elko Redevelopment Plan
City of Elko Code – Section 8-7 Street Vacation Procedures

NRS 278.479 to 278.480

- Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The

governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed

Due to the fact the easement is not currently being used, staff feels that vacating this easement will not materially injure the public.

MASTER PLAN – Land Use:

1. The Master Plan Land Use Atlas shows the area as Medium Density Residential.
2. R- Single Family and Multiple Family Residential is a corresponding zoning district for Medium Density Residential.

The proposed vacation is in conformance with the Master Plan Land Use component.

MASTER PLAN - Transportation:

1. The area is accessed from Dakota Drive.
2. Dakota Drive is classified as a Residential local.
3. The property is lacking public improvements along Dakota Dr.

The proposed vacation is in conformance with the Master Plan Transportation Component.

REDEVELOPMENT PLAN

- The area is located outside the Redevelopment Area.

ELKO CITY CODE 8-7-3-STREET VACATION PROCEDURE

The City Council is required to determine that the public will not be materially injured by the proposed vacation, and that it is in the best interest of the city, prior to ordering the street be vacated.

Staff has determined that the public will not be materially injured by the vacation as the public utility easement is not currently being utilized.

FINDINGS

- The proposed vacation is in conformance with the City of Elko Master Plan Land Use Component.
- The proposed vacation is in conformance with the City of Elko Master Plan Transportation component.
- The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive.
- The proposed vacation is not located within the Redevelopment Area.
- The proposed vacation is in conformance with Elko City Code 8-7.

STAFF RECOMMENDATION:

Staff recommends the City Council accept this petition and forward this item to the Planning Commission for further consideration.

RECEIVED

SEP 28 2020

EXHIBIT A
25' PUBLIC UTILITY EASEMENT
TO BE VACATED
September 24, 2020

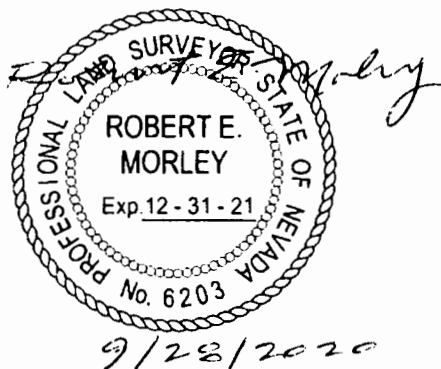
An Easement for utility purposes located in Section 9, T.34 N., R.55 E., M.D.B. & M., City of Elko, Nevada, being 25.00 feet in width, lying 12.50 feet on each side of the following described centerline:

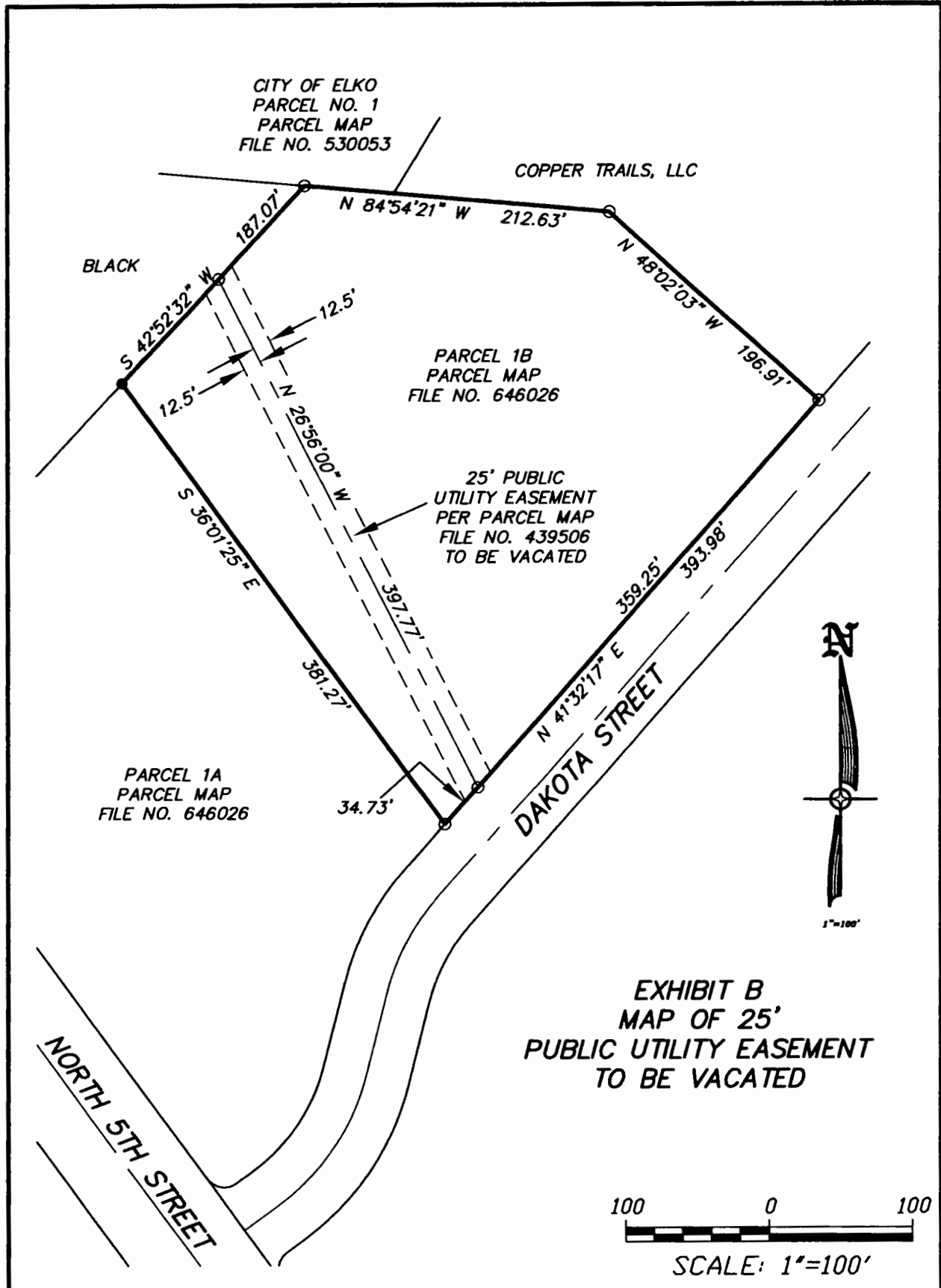
Commencing at the most Southerly Corner of Parcel 1B, as shown on the Parcel Map for Grace Baptist Church, on file in the Office of the Elko County Recorder, Elko, Nevada, at File No. 646026, thence N 41° 32' 17" E, 34.73 feet along the Southeasterly Line of said Parcel 1B to Corner No. 1, the True Point of Beginning;

Thence N 26° 56' 00" W, 397.27 feet to Corner No. 2, a point being on the Northwesterly Line of said Parcel 1B, the point of Ending;

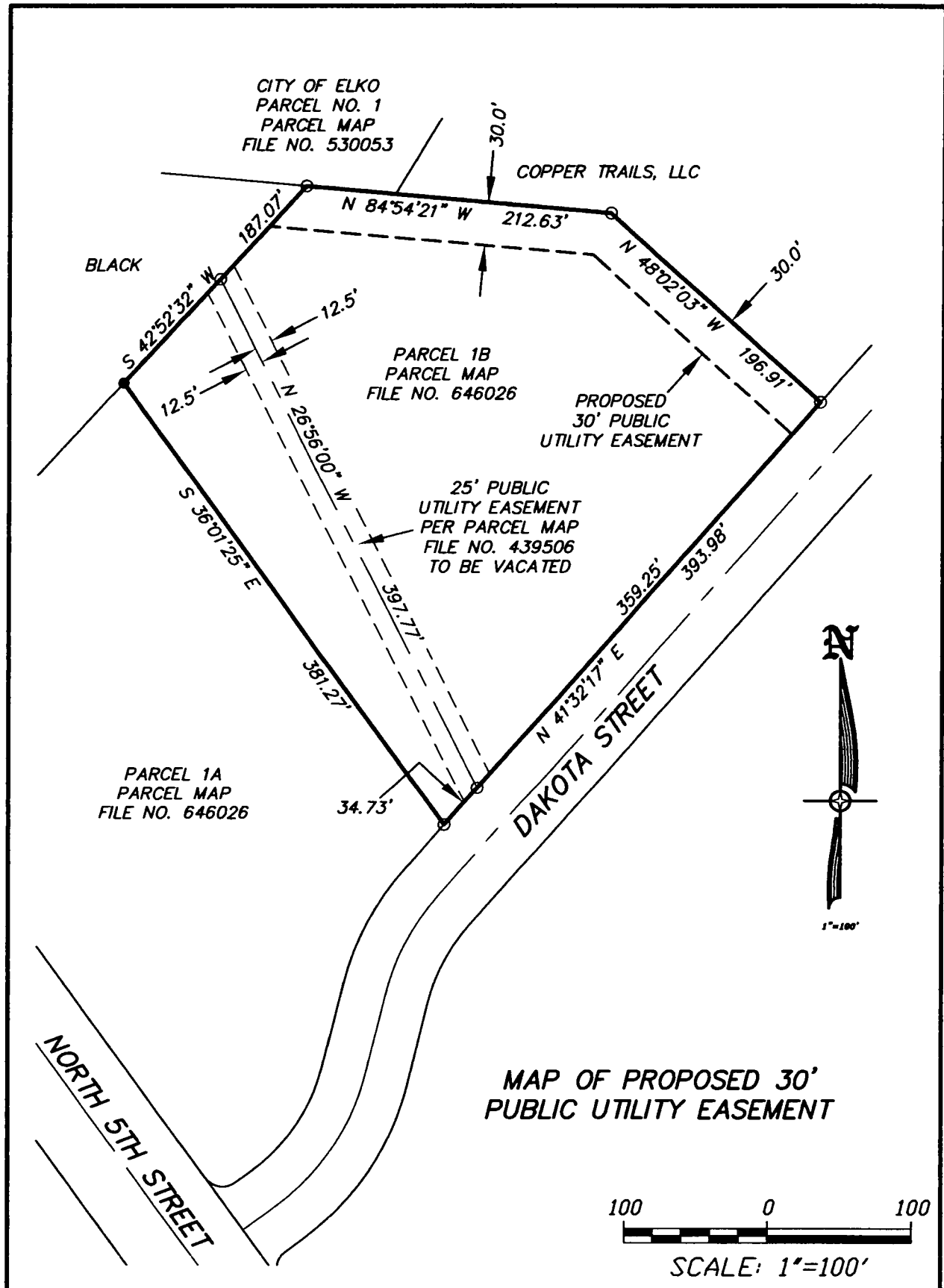
The sidelines of the above described easement are to be shortened or lengthened so as to begin on the said Southeasterly Line of Parcel 1B and terminate on the said Northwesterly Line of Parcel 1B.

Reference is hereby made to Exhibit B, Map of 25' Public Utility Easement to be vacated, attached hereto and made a part hereof.





11/1/2018





CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801 *

(775) 777-7160 * (775) 777-7119 fax

APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

APPLICANT(s): Grace Baptist Church
MAILING ADDRESS: 3030 North Fifth Street, Elko, Nevada 89801
PHONE NO (Home) (775) 340-4942 (Business) _____
NAME OF PROPERTY OWNER (If different): _____
(Property owner's consent in writing must be provided.)
MAILING ADDRESS: Same as Applicant
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):
ASSESSOR'S PARCEL NO.: 001-610-112 Address 3030 North Fifth Street
Lot(s), Block(s), & Subdivision _____
Or Parcel(s) & File No. Parcel 1B, File No. 646026

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

Fee: A \$600.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

Legal Description: A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

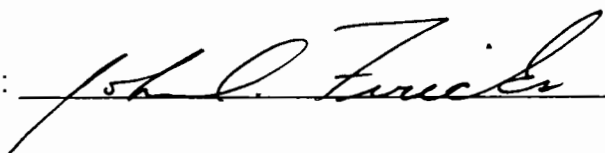
Applicant / Agent _____ John Ferricks, President of Grace Baptist Church
(Please print or type)

Mailing Address _____ 3030 North Fifth Street
Street Address or P.O. Box

_____ Elko, Nevada 89801
City, State, Zip Code

Phone Number: _____ (775) 340-4942

Email address: _____ tgmd1@citlink.net

SIGNATURE: _____ 

FOR OFFICE USE ONLY

File No.: 4-20 **Date Filed:** 9/28/26 **Fee Paid:** _____

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to accept a petition for the vacation of a portion of Silver Street Right-of-Way, consisting of an area approximately 1,720 sq. ft., filed by Ygoa Ltd. and processed as Vacation No. 3-20, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **PETITION**
4. Time Required: **10 Minutes**
5. Background Information: **The applicant would like to vacate this portion of Silver Street to create an outdoor dining area. CL**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Application, Map, and Staff Memo**
9. Recommended Motion: **Deny the petition to vacate a portion of Silver Street based on findings as stated in Staff report dated October 1, 2020.**

If Recommended Motion is for Approval: Approve to accept petition for vacation and direct Staff to commence the vacation process by referring the matter to the Planning Commission.
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Ygoa Ltd.
246 W. Silver Street
Elko, NV 89801**

**Eric Lattin
P.O. Box 2561
Elko, NV 89801
e.lattin@blackdolphinnv.com**



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

MEMO DATE:	October 1, 2020
CITY COUNCIL PETITION DATE:	October 13, 2020
APPLICATION NUMBER:	Vacation 3-20
APPLICANT:	Ygoa Ltd.
PROJECT DESCRIPTION:	APN 001-334-002

Vacation of the Silver Street right-of-way



STAFF RECOMMENDATION:

RECOMMEND to DENY PETITION subject to findings of fact and conditions stated in this

PROJECT INFORMATION

PARCEL NUMBER: 001-334-002

EXISTING ZONING: GI- General Industrial

MASTER PLAN DESIGNATION: Mixed Use Downtown

EXISTING LAND USE: Developed, Restaurant with long term boarding rooms upstairs

BACKGROUND:

1. The property has been developed for over 100 years.
2. The area proposed to be vacated is approximately 1,720 sq. ft.
3. The area proposed to be vacated is currently being used for public parking.

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

Northeast: C-Commercial / Developed
Northwest: C-Commercial / Developed
Southeast: GI- General Industrial / Developed
Southwest: C-Commercial / Developed

PROPERTY CHARACTERISTICS:

1. The property is currently developed.
2. The property has very little slope to either Silver Street or 3rd Street right-of-way.
3. There is sidewalk along the building on all three street frontages.
4. There is an existing driveway out of the public parking onto Silver Street in front of the property.
5. There is a City of Elko water line that is within the area proposed for vacation.

MASTER PLAN AND CITY CODES:

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive
City of Elko Master Plan – Land Use Component
City of Elko Master Plan – Transportation Component
City of Elko Redevelopment Plan
Elko City Code 3-2-17 Traffic, Access, Parking and Loading Regulations
Elko City Code – Section 8-7 Street Vacation Procedures

NRS 278.479 to 278.480

- Except as otherwise provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The

governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed

Taking away a public use for the property as public parking, can be considered materially injuring.

MASTER PLAN – Land Use:

1. The Master Plan Land Use Atlas shows the area as Mixed Use Downtown.
2. GI- General Industrial is not a corresponding zoning district for Mixed Use Downtown.
3. Objective 2: Encourage revitalization and redevelopment of the downtown area to strengthen its role as the cultural center of the community.
4. Objective 6: Encourage multiple scales of commercial development to serve the needs of the region, the community, and individual neighborhoods.

Due to the existing zoning the proposed vacation is not in conformance with the Master Plan Land Use component but does meet several of the goal and objectives.

MASTER PLAN - Transportation:

1. The property is accessed from Silver Street, 3rd Street and River Street.
2. Silver Street is a major arterial.
3. 3rd Street and River Street are not classified in the Transportation component.
4. The existing egress onto Silver Street is within the area proposed to be vacated and it is being proposed to being moved further to the West.

The proposed vacation is in conformance with the Master Plan Transportation Component.

REDEVELOPMENT PLAN

The property is located within the Redevelopment Area and the Central Business District.

- The RDA Master Plan has the following goals as it is related to traffic in the RDA
 2. To promote and support a pedestrian oriented downtown; and, to achieve an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate to attainment of the objectives of the Redevelopment Plan.
 4. To ensure adequate vehicular access and circulation; to retain and sustain existing businesses by means of redevelopment and rehabilitation activities, and encourage cooperation and participation of owners, businesses and public agencies in the revitalization of the Redevelopment Area.
 7. To achieve Plan conformance and advancement through replanning, redesign and the redevelopment of areas which are stagnant or improperly used.
- Actions by the City
The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure the continued fulfillment of the purposes

of this Plan and to prevent the recurrence or spread in the area of conditions causing blight.

E. General Controls and Limitation

(7) Public Uses

- The Redevelopment Plan states: The intent of this Redevelopment Plan is to maintain the amount of property currently being used for public purposes.

Preliminary Plan adopted November 13, 2007– Parking:

- The Redevelopment Plan states: On street parking is not reserved or limited to the exclusive use of the abutting property owner, but is made available to the public on a first-come, first-serve basis.
- The Redevelopment Plan states: Parking needs can be met with the conversion of local street blocks to angled parking.
- Parking regulations: A parking deficiency is created due to properties not required to provide off street parking. Public right-of-way is forced to absorb a significant share of the cumulative parking demand.

RDA Vision Plan:

- On- street parking provides an effective buffer for the pedestrian as well as easy access to surrounding businesses and reduces the amount of surface lot parking needed. Even a few spaces provide a positive perception of parking availability.
- Include on-street parking where street width and traffic patterns/speed limits allow. Angled parking may be effectively utilized on side streets.

In summary; with the distance to the parking corridor, the flourishing business as well as surrounding businesses, public parking should be preserved.

ELKO CITY CODE 3-2-17-TRAFFIC, ACCESS, PARKING AND LOADING REGULATIONS

1. 3-2-17(I)(2) All principal permitted uses which are situated on property located within four hundred feet (400') of the central business district public parking corridor, are exempted from providing required off street parking.
2. The applicant has proposed to move the egress from the parking area further to the west. This will account for approximately 5 parking spaces lost but will make for a safer intersection at 3rd Street.
3. Private property owners may be granted access from principal/major arterial streets if there is no other reasonable access to the parcel, in which event access shall be restricted to right turns only and shall be located no less than three hundred fifty feet (350') from all other intersections and points of access.

This vacation of right-of-way creates a detriment to adjoining businesses who would lose public parking and are over 400' to the public parking corridor.

ELKO CITY CODE 8-7-3-STREET VACATION PROCEDURE

The City Council is required to determine that the public will not be materially injured by the proposed vacation, and that it is in the best interest of the city, prior to ordering the street be vacated.

Staff has determined that the public will be materially injured by the loss of public parking. This block of Silver Street consists of busy restaurant uses. However, there is a significant lack of parking within a reasonable distance of the buildings.

OTHER AREAS OF CONCERN

1. The City of Elko has a water line within the area proposed to be vacated. This water line serves more than one business to the west of the area proposed to be vacated. The City of Elko would require an easement over the water line as a condition of the vacation. The applicant has presented a rendering of the proposed area to be outdoor dining with a block or brick wall enclosing the area which would not be allowed to be constructed over an easement. The water line would be required to be relocated if the applicant chose to build the block wall.
2. The applicant is proposing for the area to be outdoor dining which would be calculated towards the occupant load of the property and therefore several building codes would need to be considered such as egress requirements and restrooms for the additional occupant load.

FINDINGS

1. Staff has determined that the public will be materially injured by the loss of public parking and therefore, the proposed vacation is not in conformance with NRS 278.479 to 278.480, inclusive.
2. Due to the existing zoning the proposed vacation is not in conformance with the Master Plan Land Use component but does meet several of the goal and objectives.
3. The proposed vacation is in conformance with the City of Elko Master Plan Transportation component
4. The proposed vacation is not in conformance with Elko Redevelopment Plan
5. The proposed vacation is not in conformance with Elko City Code 3-2-17.
6. The vacation of right-of-way creates a detriment to adjoining businesses who would lose public parking and are over 400' to the public parking corridor.
7. The proposed vacation is not in conformance with Elko City Code 8-7-3.

STAFF RECOMMENDATION:

Staff recommends the City Council DENY this petition.

SEP 28 2020

EXHIBIT A
STREET VACATIONS FOR YGOA, LTD
September 15, 2020

A Parcel of land located in Section 15, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, being a portion of Silver Street adjacent to Lots 23 and Lot 24, of Block V, Town now City of Elko, Nevada , more particularly described as follows:

Beginning at the most Westerly Corner of said Lot 23, Block V, a point being Corner No. 1, the true point of beginning;

Thence N 48° 02' 29" W, 34.40 feet to Corner No. 2;

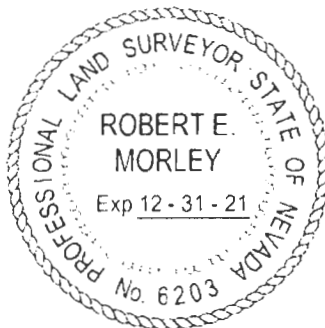
Thence N 41° 57' 31" E, 50.00 feet to Corner No. 3;

Thence S 48° 02' 29" E, 34.40 feet to Corner No. 4, a point being the most Northerly corner of said Lot 24, Block V;

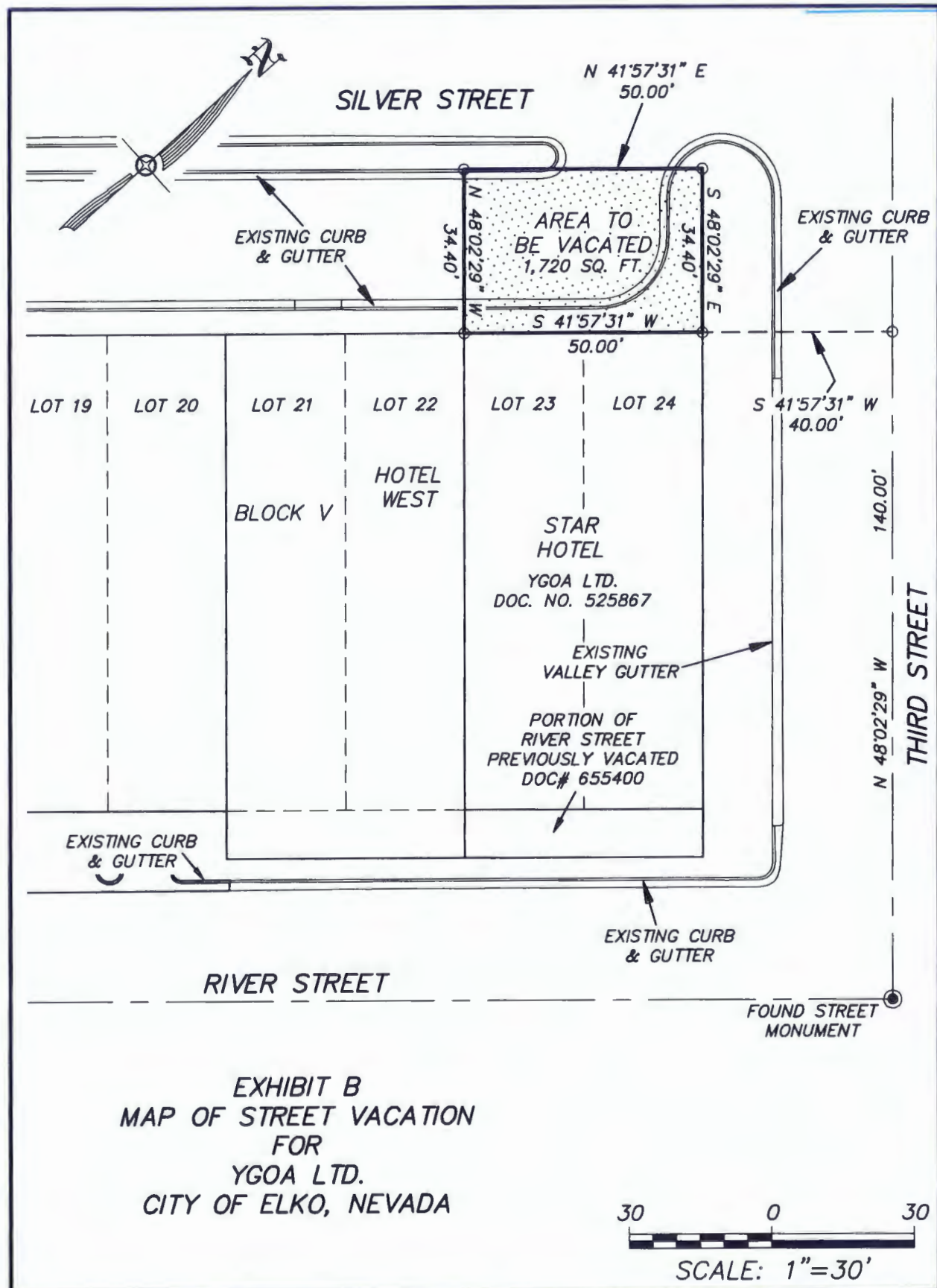
Thence S 41° 57' 31" W, 50.00 feet along the Northwesterly Line of said Lot 23 and Lot 24, Block V, to Corner No. 1, the point of beginning, containing 1,720 square feet, more or less.

The basis of bearing for the above described parcel is the Record of Survey for the City of Elko Railroad Relocation Project on file in the office of the Elko County Recorder, Elko, Nevada, as File No. 237417.

Reference is hereby made to Exhibit B, Map of Street Vacation for YGOA, LTD attached hereto and made a part hereof.



SEP 28 2020



RECEIVED

SEP 28 2020

STAR HOTEL
PROPERTY LINE

BOU KAROU
BOUTIQUE

AREA TO BE
PAVED

CURB AND GUTTER
TO BE INSTALLED

VEHICLE
ACCESS

EXIST CURB AND GUTTER
TO REMAIN

CURB AND GUTTER
TO BE REMOVED

SILVER STREET



DESIGNED: DATE: SCALE: FILE NAME: 10-10-2020

PROJECT

REPAIR OF
SILVER STREET

CLIENT

STAR HOTEL
BOU KAROU BOUTIQUE

SHEET TITLE

STAR HOTEL

REVISION

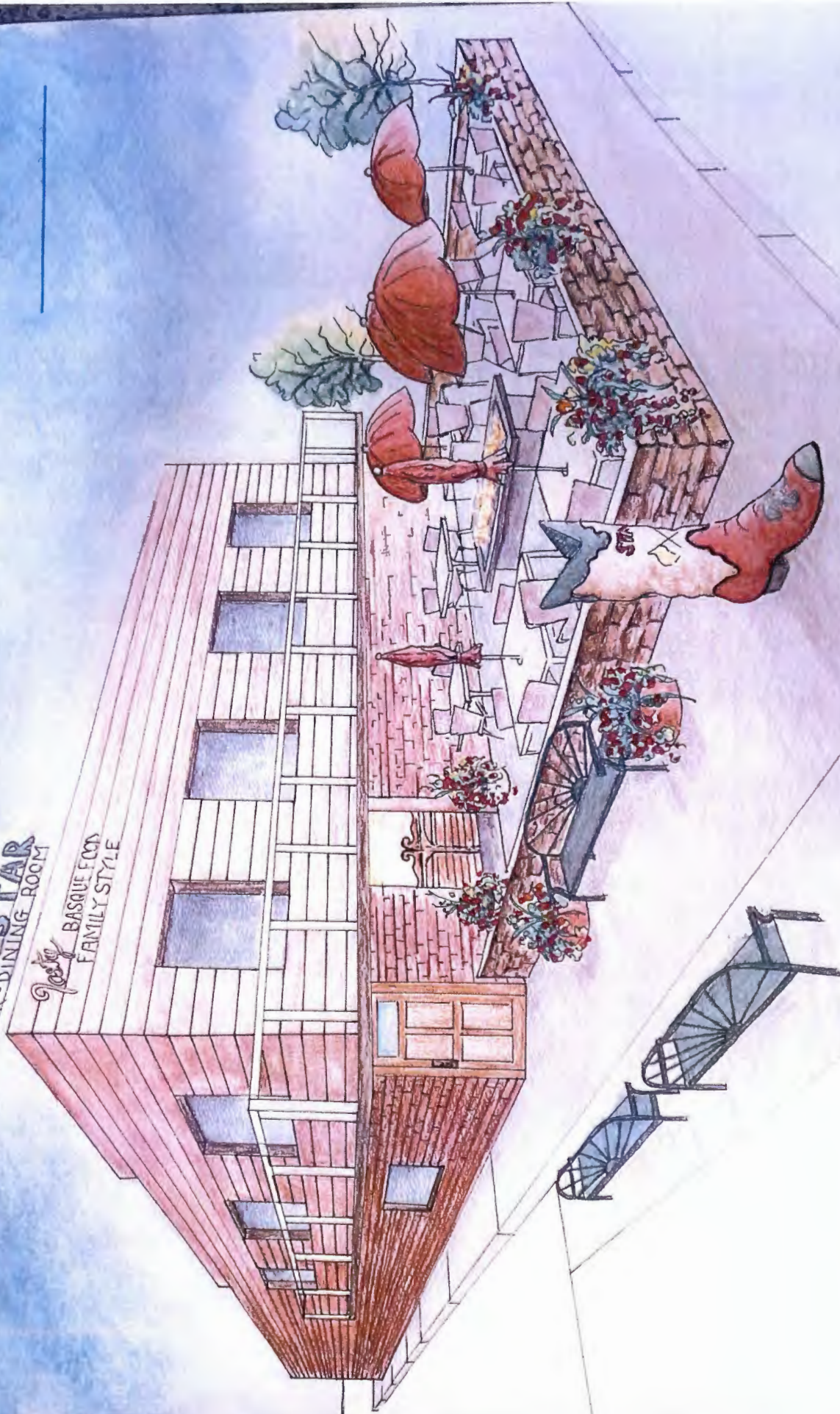
DRAWING NO

BO PROJECT NO

 **THE STAR**
BAR-DINING ROOM
Joey BASQUE FOOD
FAMILY STYLE

RECEIVED

SEP 28 2020



WHITE



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801 *

(775) 777-7160 * (775) 777-7119 fax

APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

APPLICANT(s): SCOTT YGOA / YGOA LTD

MAILING ADDRESS: 246 W SILVER STREET

PHONE NO (Home) (Business) 775-738-9925

NAME OF PROPERTY OWNER (If different):

(Property owner's consent in writing must be provided.)

MAILING ADDRESS:

LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):

ASSESSOR'S PARCEL NO.: 001-334-002 Address 246 W SILVER STREET

Lot(s), Block(s), & Subdivision LOT 23 & 24

Or Parcel(s) & File No.

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

Fee: A \$600.00 non-refundable fee.

Plot Plan: A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

Legal Description: A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

SCOTT YGOA

(Name)

246 W SILVER STREET

(Address)

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

(Name)

(Address)

1. Describe the nature of the request: APPLICANT WOULD LIKE TO CONSTRUCT
OUTDOOR SEATING IN THE REQUESTED AREA FOR VACATION.
OUTDOOR SEATING WILL INCLUDE NEW PAVERS, TABLES & CHAIRS,
A CANOPY SHADE, ETC. FOR CUSTOMERS.

2. Describe any utilities currently located in the area proposed for vacation, and if any are present
how they will be addressed: _____

Use additional pages if necessary

This area intentionally left blank

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspection said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not effect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent ERIC LATTIN
(Please print or type)

Mailing Address PO BOX 2561
Street Address or P.O. Box

ELKO, NV 89801
City, State, Zip Code

Phone Number: 775-934-5114

Email address: E.LATTIN@BLACKDOLPHINNV.COM

SIGNATURE: 

FOR OFFICE USE ONLY

File No.: 3-20 **Date Filed:** 9/28/20 **Fee Paid:** _____

Cathy Laughlin

From: scotty ygoa <starhotel30@yahoo.com>
Sent: Friday, September 25, 2020 10:24 AM
To: Cathy Laughlin
Subject: Star hotel Vacation

Hi Cathy,
Eric Lattin can act on my behalf,
On the upcoming vacation and balcony addition issues.
Thank you
Scotty

Sent from my iPhone

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a request by Jeff and Jenny Peterson of 2727 Morning Breeze Drive to pay the costs for repair costs on a water leak at this residence, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **PETITIONS, APPEAL, AND COMMUNICATIONS**
4. Time Required: **15 Minutes**
5. Background Information: **On July 17, 2020 and again on July 22, 2020 the City of Elko was contacted regarding a water leak at 2727 Morning Breeze Drive. It was discovered there were two leaks on the City line. The Petersons are requesting payment of a \$1000 invoice from Fielder Sewer and Drain. The claim was denied by Alternative service Concepts, the City's third-part administrator for insurance claims. The agenda packet contains specific information regarding the leak. KW**
6. Budget Information:
 - Appropriation Required: **\$1000.00**
 - Budget amount available:
 - Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Incident report from the Petersons, report from Clark Phillips, Invoice from Fielder Sewer and Drain.**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: jpetersen@health.nv.gov

Petersen water leak

Jenny Petersen <jpetersen@health.nv.gov>

Fri 10/2/2020 9:52 AM

To: City Clerk <cityclerk@elkocitynv.gov>

Hi,

I am requesting we have our claim discussed at the next city council meeting on October 13, 2020.

Thank you,

Jenny Petersen



Jenny Petersen, RN Psychiatric Nurse II

Nevada Department of Health and Human Services

Department of Public and Behavioral Health | Rural Clinics

1825 Pinon Road Suite A | Elko, NV 89801

T: (775) 738-8021 x241 | F: (775) 738-8842 | E:

[jpetersen@health.nv.gov]jpetersen@health.nv.gov

www.dhhs.nv.gov |

[<http://www.division%20website.nv.gov>]www.division website.nv.gov

Helping People. It's who we are and what we do.

Find help 24/7 by dialing 2-1-1; texting 898-211; or visiting www.nevada211.org

NOTICE: This message and accompanying documents are covered by the electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, may be covered by the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and may contain confidential information or Protected Health Information intended for the specified individual(s) only. If you are not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, copying, or the taking of any action based on the contents of this information is strictly prohibited. Violations may result in administrative, civil, or criminal penalties. If you have received this communication in error, please notify sender immediately by e-mail and delete the message.

Jeff and Jenny Petersen
2727 Morning Breeze Dr.
Elko, NV 89801
775-934-0216
jeffrodp2001@yahoo.com

I would first like to thank the City for their speed and ability to correct this water problem. However, I am writing this letter to ask that the City of Elko be held fully responsible, financially, for the water leak and repairs that occurred at our house this past week. The leak was first noticed on July 17 and was repaired on the 22nd. It is unfortunate that the original contractor laid the water lines in the manner that he did, making the City responsible for unknown future problems. Wasn't there an inspection required during the original construction that would have alleviated much of this problem and the future problems that the city will have to face? As the city is responsible for the water line from the main line to the meter, this incident would fall under that premise. I have paid a total \$1000 to the plumber for their work to try and locate and repair the leak. I would ask that the City reimburse me for the \$1000 costs based on the primary problem occurring on the City line. Please find below a summary of events associated with this issue:

On Friday (July 17) water was noticed under the steps near our garage. Having watered the night before we left it and noticed that after no watering, there was still water on the concrete on Saturday morning. At this point we contacted the City and Dustin used a probe to try and locate a leak. There was a wet spot from the uphill neighbor (associated with sprinkler system), so they shut their sprinklers off for the duration of this issue. We allowed everything to "dry" until Monday, when the leak was still evident. On Monday I started digging in the flower bed next to the garage and found that as I dug a pool was created and would quickly fill up after draining the water. On Tuesday afternoon, Fielder Plumbing came to help trace the leak with no luck the first night. On Wednesday the area in the flower bed was excavated down about 4 feet and it was found that the water flow was coming from the direction of the driveway, under the concrete of the steps, foundation, and driveway.

As there is no reason for water to be coming from the driveway, the City was contacted, and Dustin again came to try and figure out the source. After probing the lawn for wet spots a second time and discussions of the city line, it was decided to dig between the service line to the house and the concrete wall to try and locate an uphill leak/wet spot. This spot was chosen because it was about 2 feet downhill of the presumed service line to the house (based on water meter and house hook-up). As Fielder Plumbing was removing soil, they found and broke a water line running perpendicular to the service line to the house. This filled the hole and the City team quickly showed up to pump and repair the water line. Once the leak was stopped it was determined by the City crew that the water line to our meter did not run in a straight line from the main line in the street, but rather ran under our drive way, across our front yard, and circled down towards the sidewalk before tying in to the water meter.

Once the main line was repaired and it was determined that the main water line circled through our front property, the city used a concrete saw and jackhammer to remove a portion of the driveway to locate the original leak. After removing the concrete and soil, the line was located, and the leak was fixed. Both holes were backfilled, and the concrete is supposed to be repaired by the City.



**City of Elko
Water/Sewer Dept.**

1751 College Avenue
Elko, NV 89801
(775) 777-7375 (775) 777-7379 Fax

Kelley,

On July 22nd, 2020 at approximately 11 am, I received a call from Chris Fowler at the office stating Rod Fielder had a water leak he needed isolated. I hung up the phone and, reached out to my on call guy Dustin Skinner to go up and, help him shut it off. As I was on my way home for lunch at roughly 12:30, I received another call from Chris at the office stating, Rod Fielder had hit the line he was excavating by and there was water coming from his hole nonstop. I left my house immediately and, headed over to the service address of 2727 Morning Breeze Drive.

Upon arrival, I started to investigate why we still had water coming from the hole. I started by putting a key on the meter pit valve to make sure it hadn't been spun past stop and, it hadn't. I then walked between houses to ensure there were no taps from one neighbor to another and, had none. So, I called my vac truck operator and, had him bring our Vactor 2100 plus to the service address to suck the water from the hole and, get to the bottom of the issue.

Once Roger Veldt showed up, I had him suck the water from the hole and get down to the leak. Once we were down to the leak, I had seen 2 pipes: One(That was the feed to the house from the meter pit) and the Other(Being the main service line to the pit) crossed over one another. We had an operator get into the hole and, use our red pinchers to stop flow. Once we were able to stop flow, we were able to determine that the line we had pinched was actually the service line.

The tap for the service line was ran from the main roughly 100-120' straight up the driveway. It then took a 90 degree turn and, ran parallel to the garage under their walkway, under the service line to the house. Once it got under the service line to the house, it made a long bend around the majority of the front yard, ran almost to the sidewalk and, into the meter pit. Under my direction, I advised my crew to bypass the loop in the yard and connect the service line to the homeowner's line where the 2 lines crossed to, see if we gave the house water. Once we connected the said lines together, a City Water Crew Member unpinched the service line and, we had water immediately to the outside hose spigot. I also had them install a shut off valve there so, we can isolate the home owner's if we ever have an issue.

After we fixed the issue in the yard, the homeowner's informed me they had another leak at their flower bed/garage corner. I made the decision to have my crew jack hammer a small piece of their walkway out so, we could locate their service line. Since, we had decided it ran in that direction. Once, the concrete was removed, the crew dug down and found a 2" split on the service line. We were able to repair that, as well. The City Water Department crew then, took backfill up and properly compacted the square we removed from the concrete.

I, Clark Phillips have added that square to the City's concrete repair patch list and, it should be patched by the end of August 2020. 2727 Morning Breeze isn't the first service address to have this issue. The Water Department has fixed several leaks in this area with "funky" service line locations. Luckily, up to this point the have not been this in depth or, as complicated as we have found the issue in the yard. I am unsure why these service addresses in this neighborhood are routed this way. I am guessing during the construction phase this was determined "best route"

Regards,

Clark Phillips

Water/Sewer Superintendent

775-388-8912

cphillips@elko-citynv.gov

Fielder Sewer & Drain

501 Spring Valley Pkwy
Spring Creek, NV 89815
(775)397-6746 cell

Invoice

Date	Invoice #
7 22 2020	12484

Bill To
Jeff and Jenny Petersen 2727 Morning Breeze Dr Elko, NV 89801

PAID
07/22/2020

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	Located leak and dug line The problem ended up being a city lateral line to the main water valve that was leaking	1 000 00	1 000 00
		Total	\$1 000 00

Alternative Service Concepts

Flexibility · Expertise · Integrity

August 28, 2020

Jeff and Jenny Peterson
2727 Morning Breeze Drive
Elko, NV 89801

RE: Claim #: P243-20-06991-01
Our Insured: City of Elko
Loss Date: July 17, 2020

Dear Mr. & Mrs. Peterson:

As you are aware Alternative Service Concepts is the third-party administrator of claims for the Nevada Public Agency Insurance Pool (NPAIP) of which City of Elko is a member.

We have had the opportunity to review the information relating to the subterranean water line failure that occurred on July 17, 2020. The City of Elko responded within a reasonable amount of time once they received notice of the water line failure. Based on our investigation of the facts we have determined that City of Elko is not negligent and is therefore not liable for any damages resulting from this water line failure. This letter is meant as formal notification of denial of your claim against City of Elko. We find that the proximate cause of the loss was not foreseeable in that the City of Elko did not have any prior notice of any prior problems with the water line in the area of the failure. City of Elko has statutory immunity under NRS 41.033, a copy of which is attached for your review.

Since this incident has happened, we suggest you consider some prevention measures for your property.

Please note that pursuant to the Nevada Revised Statutes, you have 3 years from the date of loss to protect the Statute of Limitations on property damage claims. If you have any further questions or concerns, please contact our office. We sincerely apologize for any inconvenience to you as a result of this incident.

Sincerely,

Cynthia McGraw
Senior Claims Administrator
Alternative Service Concepts, LLC

Encl: Copy of NRS 41.033
Cc: Sam Tackett, Nye County

639 Isbell Road, #390, Reno, NV 89509
Phone: (702) 478-6952 Facsimile: (725) 201-6625
E-mail: cynthia.mcgraw@ascrisk.com

Elko City Council
Agenda Action Sheet

1. Title: **Review, consideration, and possible action concerning a request for the City Council to direct the Building Department to issue an order of non-compliance to the owner of the property and partially demolished building located at 397 5th Street, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **PETITIONS, APPEALS & COMMUNICATIONS**
4. Time Required: **20 Minutes**
5. Background Information: **The City received a petition from the owner of the property and structure located at 369 5th Street and abutting the partially demolished structure located 397 5th Street. The request is based on the petitioner intending to complete roof repairs on the structure located at 369 5th Street. The petitioner states that they have attempted to utilize the wall located on 397 5th Street for completion a roof repair on the structure located at 369 5th Street. The petitioner did not provide documentation that the owner of 397 5th Street has granted permission for the use of the wall. The petitioner states that a bricklayer was consulted, and a determination was made the wall is structurally unsound and demolition of the wall is required. A structural analysis completed by a properly licensed professional would be required for a final determination.**

The Building Department issued a demolition permit 2018-00000452 on May 21, 2018. That permit is still open pending a final inspection. A final inspection cannot be performed until the owner of the property provides the City a structural analysis showing the portion of the structure left standing is structurally sound. SAW
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Email dated October 5, 2020 from the property and building owner of 369 5th Street Letter dated October 5, 2020 from the property and building owner of 369 5th Street, Copy of Building Permit 2018-00000452, email from the City Building Department dated October 7, 2020.**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Scott A. Wilkinson, City of Elko Assistant City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: davidknight@frontiernet.net; Carl Pescio the_coyce09@yahoo.com

Kim Wilkinson

From: davidcknight@frontiernet.net
Sent: Monday, October 05, 2020 11:01 AM
To: Kim Wilkinson
Subject: Request for the City Council to address an issue with the wall at 397 Fifth Street.
Attachments: Scan_2020_10_05_10_42_55_705.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kim:

Hope you have been well.

Attached is a request for the Mayor and City Council to issue non-compliance order of building permit 2018-00000452 to have the owners of the wall at 397 5th Street complete demolition of the building. Which will enable us to finish our new roof.

Best Regards,

David C. Knight
109 Fir Street
Elko, NV 89801-3023
775-738-6064 Home
775-934-5453 Mobile

This email may contain information that is confidential and/or subject of legal privilege intended only for the use by the intended recipient. If you are not the intended recipient or the person responsible for delivering the message to the intended recipient, be advised that you have received this message in error and that any dissemination, copying or use of this message is strictly forbidden, as is the disclosure of information therein. If you received this email in error please notify the sender immediately and destroy the documents.

David C. and Debra J. Knight Living Trust
109 Fir Street
Elko, Nevada 89801 3023
(775) 738-6064
(775) 753-3834 fax
dave@dknighttrust.com

October 5, 2020

Honorable, Reece Keener, Mayor of Elko
and Members of Elko City Council
Elko City Hall
1751 College Ave
Elko, NV 89801

Dear Mayor Keener and Members of City Council:

We respectfully ask you to instruct the building department to issue a finding on non compliance of building permit 2018 00000452, issued May 21, 2018 for demolition of a building that occupied Parcel Number 001265006, address 397 5th Street, Elko, issued to Sonora LLC, P.O. Box 1597, Elko, NV, 89803 1597 and Braemar Construction LLC, 930 Idaho St., Elko, NV 89081 (see attached Permit)

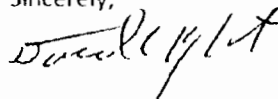
The purpose for issuing the non compliance is that the demolition was not completed.

Prior to demolition the buildings at 369 and 397 5th Street shared a common roof which had a common drain on the roof of our building at 369 5th Street. This summer we had to replace the roof at 369 5th Street. To complete the roof installation the roof membrane needs to be secured to a stable surface. The wall left standing on 397 5th Street is not stable enough to secure the roof. Several attempts have been made to affix the new roof to the wall, but none succeeded. A brick layer was consulted to see if he could remove bricks until a solid surface was found and then build up from there. The brick layer could not find a solid portion of the wall and suggested demolition.

We ask the Council to direct the Building Department to issue an order of non-compliance to the owner of 397 5th Street and have the owner complete the demolition of the building so we can build a wall to secure our roof.

Thank you for your consideration.

Sincerely,



David C. Knight
Trustee



City of Elko
Building Department
PERMIT

1753 College Avenue • Elko, Nevada 89801 • 775-777-7220 • Fax 775-777-7229

IMPORTANT: Always use the permit number when requesting inspections or information concerning this permit.

Application Number:	2018-00000202	Date:	May 21 2018
Property Address:	397 5TH ST	Assessor's Parcel Number:	001265006
Lot Number:		Location:	
Application Type Description:	Miscellaneous Applications	Property Zoning:	C
Subdivision Name:			
Application Valuation:	\$150000.00		
Owner Information		Issued To:	
SONORA LLC		BRAEMAR CONSTRUCTION LLC	
PO BOX 1597		930 IDAHO ST	
ELKO, NV 89803-1597		Elko, NV 89801	
Structure Information:	Demo Commercial Building		
Construction Type:	NA		
Occupancy Type:	NA		
Number of Occupants			

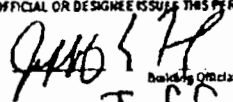
Permit Description	Permit Number	Charge Description	Charge	Paid	Balance
Building Permit	2018-00000452	Miscellaneous Permit Fee	\$43.50	\$0.00	\$43.50
		TOTALS:	\$43.50	\$0.00	\$43.50

Required Inspections
* Pre-Demo
* Post-Demo
* Building Final

CONDITIONS OF PERMIT

- I agree to build according to declared description, approved plans, specifications and all ordinances and laws regulating building construction in the City of Elko.
 - I also agree to call 775-777-7220 for inspections as required (See back for conditions).
 - I understand that THIS PERMIT BECOMES NULL AND VOID if work or construction is not commenced within 180 days from date of issuance, or work is suspended or abandoned for a period of 180 days any time after work is commenced.
- I hereby acknowledge that I have read this application and information submitted herewith and state that it is correct. I agree to comply with all ordinances and laws regulating building construction in the City of Elko.

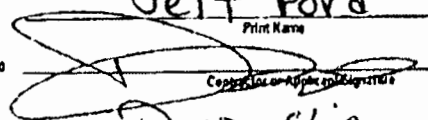
THE BUILDING OFFICIAL OR DESIGNEE ISSUES THIS PERMIT TO THE APPLICANT ON DATE SHOWN BELOW


Building Official or Designee Signature
Jeff Ford
Print Name

5-21-18
Date

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under the provisions of NRS 624.330


Contractor or Applicant Signature
Dustin Shipps
Print Name

5/21/18
Date

Scott A. Wilkinson

From: Casey B. Berry
Sent: Wednesday, October 7, 2020 9:58 AM
To: Scott A. Wilkinson
Cc: Jeff Ford; Kara Vera
Subject: Demo permit 18-452 397 5th St.

Scott,

On 5-21-18 Jeff Ford asked Dusty to provide structural information to ensure the wall between building and Carlin Trend (after permit issued) would be stable during demolition.

A pre demo inspection was completed on June 4, 2018.

Two inspections are still outstanding, post inspection and building final.

The structure information was never provided.

Thank you,

Casey Berry

Permit Technician

City of Elko Building Dept.

775-777-7220

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to conditionally approve Tentative Map No. 6-20, filed by Legion Construction and Development, LLC, for the development of a subdivision entitled Jarbidge Estates, involving the proposed division of approximately 2.16 acres of property into 18 lots for residential development and 1 common lot within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **October 13, 2020**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **15 Minutes**
5. Background Information: **The subject property is located on the west side of N 5th Street at the intersection of Rolling Hills Drive (APN 001-610-093). The Planning Commission considered this item on September 1, 2020, and took action to forward a recommendation to conditionally approve Tentative Map 6-20. MR**
6. **Budget Information:**
 - Appropriation Required: **N/A**
 - Budget amount available: **N/A**
 - Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Memo to Mayor/City Council, Maps, P.C. Action Report, Staff Reports, and related correspondence.**
9. Recommended Motion: **Conditionally approve Tentative Map No. 6-20 for the Jarbidge Estates subdivision, subject to the findings and conditions as recommended by the Planning Commission and the proposed additional condition of approval as presented by Staff in the attached memo. The City Council determines that the property can be divided based on the findings required in Section 3-3-5(E)(2) of the Municipal Code.**
10. Prepared By: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **Planning Commission**
12. Council Action:
13. Agenda Distribution: **Legion Construction and Development, LLC
Attn: John Smales
599 Shadybrook Drive
Spring Creek, NV 89815

Shanks Engineering
Attn: Mike Shanks
982 Wolf Creek Drive
Spring Creek, NV 89815**



City of Elko Development Department
1751 College Avenue
Elko, NV 89801
(775) 777-7210
FAX (775) 777-7219

Memorandum

To: Mayor and City Council
From: Michele Rambo, AICP – Development Manager
RE: Jarbidge Estates
Date: September 30, 2020

The Tentative Map for Jarbidge Estates was heard at the Planning Commission meeting of September 1, 2020. At that time, the Planning Commission recommended approval to the City Council. Per Section 3-3-5(E)(2) of the city code, the City Council must act on a Tentative Map within 60 days of the Planning Commission recommendation.

At the time of the Planning Commission meeting, the design of the proposed sewer connection utilized an existing easement through an adjoining parcel. Since that time, the adjoining parcel owner has submitted an application to vacate the existing easement and create a new easement. Because the Tentative Map has not already been approved, this creates some level of uncertainty for the developers of Jarbidge Estates as to where their sewer infrastructure will ultimately be located. In addition, the process for vacation/relocation of the easement could take until late November or early December. Waiting until this process is complete to move this item to City Council will far exceed the 60-day requirement.

To address this uncertainty and meet the 60-day requirement for City Council action, Staff has requested that the Tentative Map be revised to show both possible sewer routes. Doing this, along with the proposed additional condition of approval (below), will allow the developer the option to utilize either easement depending on whether the proposed vacation/relocation is ultimately approved. The developer has agreed in writing (attached) to either option. Staff does not feel that this change is significant enough to warrant another Planning Commission review because the ultimate connection to the public sewer system remains in the same general area (Dakota Drive).

The City Council has three options:

1. Approve as presented with the addition of the proposed condition of approval shown below (recommended action)
2. Refer back to Planning Commission
3. Deny with findings

Proposed Condition of Approval: Final sewer easement location to be determined and recorded prior to submittal of the Final Map.



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

CITY OF ELKO PLANNING COMMISSION ACTION REPORT Regular Meeting of September 1, 2020

WHEREAS, the following item was reviewed and considered by the Elko City Planning Commission on September 1, 2020 per City Code Section 3-3-5(D)4.:

Tentative Map 6-20, filed by Legion Construction and Development, LLC for the development of a subdivision entitled Jarbidge Estates involving the proposed division of approximately 2.16 acres of property into 18 lots for residential development and 1 common lot within the R (Single-Family and Multiple-Family Residential) Zoning District, and matters related thereto.

Subject property is located on the west side of N 5th Street at the intersection of Rolling Hills Drive. (APN 001-610-093)

WHEREAS, the Planning Commission, upon review and consideration of the application, supporting data, public input and testimony, forward a recommendation to City Council to conditionally approve Tentative Map No. 6-20 subject to the conditions found in the City of Elko Staff Report dated August 18, 2020, with modifications from the Planning Commission listed as follows:

Development Department:

1. Conditional Use Permit 4-20 must be approved and all conditions be met.
2. Rezone 5-20 must be approved and in place and any/all conditions be met prior to City Council consideration of Tentative Map 6-20.
3. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.
4. Tentative Map approval constitutes authorization for the subdivider to proceed with preparation of the Final Map and associated construction plans.
5. The Tentative Map and construction plans must be approved by the Nevada Department of Environmental Protection prior to submitting for Final Map approval to the City of Elko.
6. Tentative Map approval does not constitute authorization to proceed with site improvements.
7. The applicant must submit an application for Final Map within a period of four (4) years in accordance with NRS.360(1)(a). Approval of the Tentative Map will automatically

lapse at that time.

8. A soils report is required with Final Map submittal.
9. A hydrology report is required with Final Map submittal.
10. Final Map construction plans are to comply with Chapter 3-3 of City code.
11. The subdivision design and construction shall comply with Title 9, Chapter 8 of City code.
12. The Utility Department will issue an Intent to Serve letter upon approval of the Tentative Map by the City Council.
13. Submit CC&Rs prior to approval by the City Council.
14. Add a note to the map restricting access to individual townhomes from N 5th Street.

Engineering Department:

1. Sheet T1 – Revise note 1. Townhome parcels should not be subject to additional easements.
2. Sheet T1 – Revise location of proposed 15-foot utility easement, to align with the sewer and to not encroach onto the adjacent parcel.
3. Sheet T3 – Revise location of proposed hammerhead turnaround for fire, to not include any unpaved areas or parking stalls.
4. Sheet T3 – Revise sewer design so that no proposed manhole turns the flow more than 90 degrees. This occurs at the manhole on Dakota Drive, and possibly at the northerly end of the existing 25-foot easement.
5. Sheet T3 – Center the proposed sewer line in the existing easement to allow adequate room on both sides for trenching.
6. All Sheets – Signature of design professional is required on final submittal.

Fire Department:

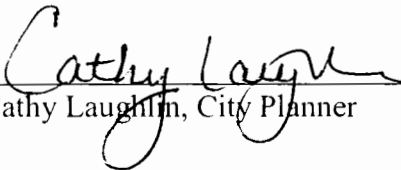
1. Fire Department access roads shall be provided and maintained in accordance with Sections 5-3.1.1 of the 2018 IFC.

Public Works Department:

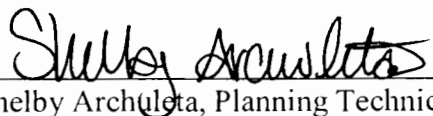
15. All public improvements to be installed at time of development per Elko city code.

The Planning Commission's findings to support its recommendation are the proposed subdivision and development is in conformance with the Land Use and Transportation Components of the Master Plan. The proposed subdivision and development does not conflict

with the Airport Master Plan, the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012, or the Wellhead Protection Program. The property is not located within the Redevelopment Area. A zoning amendment is required for the proposed subdivision. The application has been submitted to the Planning Department. In accordance with Section 3-3-5(E)(2), the proposed subdivision and development will not result in undue water or air pollution based on the following: a. There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable environmental and health laws and regulations. b. There is adequate capacity within the City's water supply to accommodate the proposed subdivision. c. The proposed subdivision and development will not create an unreasonable burden on the existing water system. d. There is adequate capacity at the Water Reclamation Facility to support the proposed subdivision and development. e. The proposed subdivision and development will be connected to the City's programmed sanitary sewer system. Therefore, the ability of soils to support waste disposal does not require evaluation prior to Tentative Map approval. f. Utilities are available in the immediate area and can be extended for the proposed development. g. Schools, fire and police, and recreational services are available throughout the community. h. The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets. i. The area is not located within a designated flood zone. Concentrated storm water runoff has been addressed as shown on the grading plan. j. The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in the water-holding capacity of the land thereby creating a dangerous or unhealthy condition. The proposed subdivision is in conformance with Sections 3-3-6, and 3-3-9 through 3-3-15 of City Code. The proposed subdivision and development is in conformance with Section 3-2-3 through 3-2-5, and 3-2-17 of City Code. The proposed subdivision and development is not located in a designated flood hazard area and is in conformance with Section 3-8 of City Code. The proposed subdivision design shall conform to Title 9, Chapter 8 of City Code.


Cathy Laughlin, City Planner

Attest:


Shelby Archuleta, Planning Technician

CC: Applicant
Kelly Wooldridge, City Clerk
Michele Rambo, Development Manager (email)

STAFF COMMENT FLOW SHEET
PLANNING COMMISSION AGENDA DATE: 9/1

Do not use pencil or red pen, they do not reproduce

Title: Tentative map No. 6-20 Jarbidge Estates

Applicant(s): Legion Construction + Development, LLC

Site Location: NE side of N. 5th St, across from Rolling Hills - APN 001-610-093

Current Zoning: AG Date Received: 6/21/20 Date Public Notice: 8/18

COMMENT: This is to divide 2.16 acres into 18 lots and a common area

If additional space is needed please provide a separate memorandum

Assistant City Manager: Date: 8/21/20

Recommend approval as presented by staff

SAW

Initial

City Manager: Date: 8/21/20

No comments/concerns.

CE

Initial



City of Elko
1751 College Avenue
Elko, NV 89801
(775) 777-7160
FAX (775) 777-7119

CITY OF ELKO STAFF REPORT

REPORT DATE:	August 18, 2019
PLANNING COMMISSION DATE:	September 1, 2020
AGENDA ITEM NUMBER:	I.A.1.
APPLICATION NUMBER:	Tentative Map 6-20
APPLICANT:	Legion Construction and Development, LLC
PROJECT DESCRIPTION:	Jarbidge Estates

A Tentative Map for the proposed division of approximately 2.16 acres of property into 18 townhouse lots for residential development and 1 common lot within an A (General Agriculture) Zoning District.



STAFF RECOMMENDATION:

RECOMMEND CONDITIONAL APPROVAL, subject to findings of fact, and conditions as stated in this report.

SUMMARY NARRATIVE

The proposed subdivision is a townhome subdivision located on the east side of N 5th Street at the intersection of Rolling Hills Drive. The 2.16-acre parcel in question would be divided into 18 residential lots and one common lot to be controlled by a Homeowner's Association. The existing grading of the parcel has been incorporated into the subdivision's design wherever possible. Water and sewer service will be extended and connected to existing City infrastructure.

A Slope Analysis was completed, which showed the average slope of the property to be 5.2%. Section 3-2-28 states that hillside development standards and regulations are required for site with an average slope of 15% or greater.

The proposed Tentative Map conforms with all city documents, plans, and ordinances. In addition, all required findings can be made in the affirmative. A Modification of Standards is required for four of the five lots to accommodate the smaller lot widths around the bulb of the cul-de-sac, which is included as part of this approval.

Several conditions of approval have been added at the end of this report for modifications of the subdivision map to be made before moving forward to final approval by the City Council.

TECHNICAL INFORMATION

PARCEL NUMBER:	001-610-093
PARCEL SIZE:	2.16 Acres
EXISTING ZONING:	(A) General Agriculture
MASTER PLAN DESIGNATION:	(RES-MD) Residential Medium Density
EXISTING LAND USE:	Vacant

NEIGHBORHOOD CHARACTERISTICS:

The property is surrounded by:

- North: A (General Agriculture) / Vacant
- South: R (Single and Multiple Residential) / Developed
- East: R (Single and Multiple Residential) / Vacant
- West: R (Single and Multiple Residential) / Developed

PROPERTY CHARACTERISTICS:

- The property is an undeveloped agricultural parcel.
- The site abuts previous residential development to the west, a church to the south, and vacant land to the north and east.
- The parcel has an average slope of 5.2%. The existing slope is incorporated into the

- design of the common lot where possible.
- The property will be accessed from N 5th Street.

APPLICABLE MASTER PLAN AND CITY CODE SECTIONS:

- City of Elko Master Plan – Land Use Component
- City of Elko Master Plan – Transportation Component
- City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012
- City of Elko Redevelopment Plan
- City of Elko Wellhead Protection Plan
- City of Elko Zoning – Section 3-2-3 General Provisions
- City of Elko Zoning – Section 3-2-4 Establishment of Zoning Districts
- City of Elko Zoning – Section 3-2-5(E) Single Family and Multiple Family Residential District
- City of Elko Zoning – Section 3-2-5(G) Residential Zoning Districts Area, Setback, and Height
- City of Elko Zoning – Section 3-2-17 Traffic, Access, Parking and Loading Regulations
- City of Elko Zoning – Chapter 3 Subdivisions
- City of Elko Zoning – Section 3-8 Flood Plain Management
- City of Elko Public Ways and Property – Title 9, Chapter 8 Post Construction Runoff Control and Water Quality Management

BACKGROUND:

1. The property owner and applicant is Legion Construction and Development, LLC.
2. The subdivision is located on APN 001-610-093.
3. The property is undeveloped.
4. The proposed subdivision consists of 18 townhouse lots and 1 common lot.
5. The total subdivided area is approximately 2.16 acres.
6. The proposed density is 8.80 units per acre.
7. No phasing is proposed as part of this subdivision.
8. There are no new roads or dedications offered as part of the project.
9. The property is located on the east side of N 5th Street approximately 450 feet north of Dakota Drive.
10. Stage 1 meetings for the proposed subdivision were held on May 13, 2020, June 10, 2020, and July 1, 2020.

MASTER PLAN

Land Use:

1. The land use is shown as Residential Medium Density. Medium Density is identified as having a density of 5-8 units per acre.
2. Single Family and Multiple Family Residential (R) zoning is not listed as a corresponding district for the Medium Density Designation in the Master Plan. Therefore, a Change of Zone is required to bring this parcel into conformance with the Master Plan. The needed Change of Zone application has been submitted to the City Planning Department and should be approved and in place prior to the development of this Tentative Map.
3. The listed Goal of the Land Use Component states: “Promote orderly, sustainable growth and efficient land use to improve quality of life and ensure new development meets the

- needs of all residents and visitors.”
4. Objective 1 under the Land Use component of the Master Plan states: “Promote a diverse mix of housing options to meet the needs of a variety of lifestyles, incomes, and age groups.”
 - a. Best Practice 1.1 – The proposed subdivision meets several of the methods described to achieve a diverse mix of single family homes in the community.
 - b. Best Practice 1.3 – The location of the proposed subdivision appears to support the City striving for a blended community by providing a mix of housing types in the neighborhood and is supported by existing infrastructure.
 5. Objective 8 of the Land Use component of the Master Plan states: “Ensure that new development does not negatively impact County-wide natural systems or public/federal lands such as waterways, wetlands, drainages, floodplains, etc. or pose a danger to human health and safety.” Staff believes there will be no negative impacts to natural systems and no issue with regard to human health and safety.

Upon approval of the associated Change of Zone, the proposed subdivision and development is in conformance with the Land Use component of the Master Plan.

Transportation:

1. The project will be accessed from N 5th Street.
2. This portion of N 5th Street is classified as a Minor Arterial road with a Regional Roadway overlay.
3. The interior circulation of the project will be provided by a private driveway.
4. The Master Plan requires Minor Arterial roads to have 80 feet of right-of-way.
5. N 5th Street has 80 feet of right-of-way. No further dedications are required.
6. Upon full buildout, the proposed subdivision is expected to generate approximately 105 additional Average Daily Trips based on 5.81 trips/townhome (ITE Trip Generation, 10th Edition).

The proposed subdivision and development is in conformance with the Transportation component of the Master Plan.

ELKO AIRPORT MASTER PLAN:

The proposed subdivision and development does not conflict with the Airport Master Plan.

CITY OF ELKO DEVELOPMENT FEASIBILITY, LAND USE, WATER INFRASTRUCTURE, SANITARY SEWER INFRASTRUCTURE, TRANSPORTATION INFRASTRUCTURE, AND ANNEXATION POTENTIAL REPORT – NOVEMBER 2012:

The proposed subdivision does not conflict with the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012.

ELKO REDEVELOPMENT PLAN:

The property is not located within the Redevelopment Area.

ELKO WELLHEAD PROTECTION PLAN:

The property is not located within a capture zone for any City of Elko wells. Development of the site is required to be connected to a programmed sewer system and all street drainage will be directed to a storm sewer system.

SECTION 3-3-5 TENTATIVE MAP STAGE (STAGE II):

Tentative Map Approval 3-3-5(E)(2)(a)-(k) – Requires the following findings:

- a. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal, and, where applicable, individual systems for sewage disposal.
 - The proposed subdivision will be connected to the city's water supply system, programmed sewer system and is required to be in compliance with all applicable federal, state, and local requirements.
- b. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision.
 - The City of Elko Engineering Department is required to model the anticipated water consumption of the subdivision. The City of Elko Utility Department will be required to submit a "Tentative Will-Serve Letter" to the State of Nevada. The water modeling requires an update to reflect the increased number of lots. Current City-wide annual water usage is approximately 50% of the total allocated water rights.
 - City of Elko currently has excess pumping capacity of 3,081 gallons per minute. Sufficient infrastructure and pumping capacity exists to provide the required water volume to serve the proposed subdivision and development.
 - The Developer will extend properly sized infrastructure as required for development of the property.
 - The proposed subdivision and development will not create an unreasonable burden on the existing water supply.
- c. The availability and accessibility of utilities.
 - Utilities are available in the immediate area and can be extended for the proposed development.
- d. The availability and accessibility of public services such as schools, police protection, transportation, recreation, and parks.
 - Schools, fire and police, and recreational services are available throughout the community.
- e. Conformity with the zoning ordinance and the City's Master Plan, except that if any existing zoning ordinance is inconsistent with the City's Master Plan, the zoning ordinance takes precedence.
 - The Master Plan Land Use Map shows the area as Medium Density Residential. The proposed subdivision and development have been designed in accordance with the Single Family and Multiple Family Residential (R) zone.

- The result is a density of 8.8 units per acre, which is slightly over the maximum density of 8 units per acre specified in the Master Plan. However, this slight overage does not result in a site plan where minimum development standards cannot be met.
 - The proposed subdivision is in conformance with the City's Master Plan. With the approval of the associated Rezone application, the subdivision will be in conformance with the Zoning Ordinance.
- f. General conformity with the City's Master Plan of streets and highways.
- The proposed subdivision is in conformance with the Transportation Component of the Master Plan.
- g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision.
- The proposed subdivision and development will add approximately 105 Average Daily Trips to N 5th Street. Based on the threshold of 1,000 ADT referenced in the Master Plan, a traffic study is not required with this subdivision.
 - The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets.
- h. Physical characteristics of the land, such as floodplain, slope, and soil.
- The proposed subdivision and subsequent development of the property is expected to reduce the potential for erosion in the immediate area. Development of the property will not cause unreasonable soil erosion.
 - A hydrology report is required with the Final Map and Construction Plan submittal.
 - The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in the water holding capacity of the land thereby creating a dangerous or unhealthy condition.
- i. The recommendations and comments and those entities and persons reviewing the Tentative Map pursuant to this Chapter and NRS 278.330 to 278.3485, inclusive.
- j. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.
- k. The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by Chapter 375 of NRS and for compliance with the disclosure and recording requirements of Subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable provisions.

SECTION 3-3-6 CONTENT AND FORMAT OF TENTATIVE MAP SUBMITTAL:

- A. Form and Scale – The Tentative Map conforms to the required size and form specifications.
- B. Identification Data
 - 1. The subdivision name, location, and section/township/range, with bearing to a section corner or quarter-section corner, is shown.
 - 2. The name, address, email, and telephone number of the subdivider is shown.
 - 3. The engineer's name, address, and telephone number are shown.
 - 4. The scale is shown on all sheets.
 - 5. The north arrow is shown on all sheets.
 - 6. The date of initial preparation and dates of any subsequent revisions are shown.
 - 7. A location map is provided.
 - 8. A legal description is provided.
- C. Physical Conditions
 - 1. The existing topography of the site is shown.
 - 2. Existing drainage conditions are shown on the Tentative Map.
 - 3. There are no Special Flood Hazards within the proposed subdivision.
 - 4. All roadways, easements, and corporate limits are shown within and adjacent to the subdivision.
 - 5. Dimensions of all subdivision boundaries are shown on the Tentative Map.
 - 6. Gross and net acreage of the subdivision is shown.
- D. Recorded Map Information:
 - 1. Any previously recorded maps for adjacent properties is labeled on the Tentative Map.
- E. Existing Zoning:
 - 1. The zoning is shown for the subject property. Zoning classifications for adjacent properties are also shown on the Tentative Map.
- F. Proposed Improvements and Other Features Data:
 - 1. The proposed interior driveway layout is shown. None of the streets are named or proposed for dedication. The grades of the proposed streets are shown on the grading plan. The continuation of roadways is not required of the proposed subdivision.
 - 2. The lot layout with consecutively numbered lots is shown. The area and dimensions for each lot are shown, as well as the total number of lots.
 - 3. Typical easements will be required along all lot lines.
 - 4. No street dedications are proposed.
 - 5. A Conditional Use Permit is required to allow for the use of townhouses in the Single Family and Multiple Family Residential zoning. This application has been submitted and is being processed by the Planning Department.
- G. Proposed Deed Restrictions:
 - 1. Proposed CC&R's for the subdivision are in development. A condition of approval has been included to require their submitted prior to City Council approval.
- H. Preliminary Grading Plan:
 - 1. A grading plan has been provided showing estimated cut and fill information.
- I. NPDES Permit Compliance:

1. The subdivider will be required to comply with the City of Elko's storm water regulations.
- J. Proposed Utility Methods and Requirements:
 1. The proposed sewage disposal infrastructure connecting to the City's infrastructure is shown on the utility plan.
 2. The proposed water supply infrastructure connecting to the City's infrastructure is shown on the utility plan.
 3. The Tentative Map shows storm water infrastructure. A hydrology report will be required with the Final Map and Construction Plan submittal.
 4. Utilities in addition to City utilities must be provided with construction plans required for Final Map submittal.
 5. The City will not require a traffic impact study for the proposed subdivision.

SECTION 3-3-9 GENERAL REQUIREMENTS FOR SUBDIVISION DESIGN:

- A. Conformance with Master Plan: The proposed subdivision is in conformance with the Master Plan objectives for density and applicable zoning.
- B. Public Facility Sites: No public facility sites are proposed for dedication.
- C. Land Suitability: The area proposed for subdivision is suitable for the proposed development based on the findings in this report.

The proposed subdivision is in conformance with Section 3-3-9 of City code.

SECTION 3-3-10 STREET LOCATION AND ARRANGEMENT:

- A. Conformance with Plan: The proposed subdivision utilizes an existing section of N 5th Street for access.
- B. Layout: Street continuation through the proposed subdivision is not required.
- C. Extensions: No extensions are required as part of the proposed subdivision.
- D. Arrangement of Residential Streets: The arrangement of streets within the subdivision prevents outside traffic from utilizing the neighborhood for cut-through traffic.
- E. Protection of Residential Properties: There are no lots that have frontage or access from arterial streets. A note has been required on the Tentative Map that no lots shall front on N 5th Street, a Minor Arterial.
- F. Parallel Streets: Consideration of street location is not required.
- G. Topography: The residential driveway has been designated to address the topography of the area.
- H. Alleys: No alleys are proposed.
- I. Half-Streets: There are no half-streets proposed.
- J. Dead-End Streets: There are no public dead-end streets proposed. The private roads, while technically considered as dead-end streets, are designed to allow for appropriate turnaround areas for traffic, as well as fire trucks.
- K. Intersection Design: The proposed intersection with N 5th Street is code compliant.

The proposed subdivision is in conformance with Section 3-3-10 of City code.

SECTION 3-3-11 STREET DESIGN:

- A. Required Right-of-Way Widths: N 5th Street currently consists of the required 80 feet of right-of-way. No new public streets are proposed.
- B. Street Grades: The proposed street grades are code compliant.
- C. Vertical Curves: The vertical curves are code compliant.
- D. Horizontal Alignment: The horizontal alignment of the driveway and intersection are code compliant.

The proposed subdivision is in conformance with Section 3-3-11 of City code.

SECTION 3-3-12 BLOCK DESIGN:

- A. Maximum Length of Blocks: The block design does not exceed the maximum length of a block and maximizes block length. Turnaround areas have been provided at the end of each driveway to allow for safe vehicular movement.
- B. Sidewalks or Pedestrian ways: The proposed sidewalks on N 5th Street are code compliant. No other public pedestrian ways are proposed.

The proposed subdivision is in conformance with Section 3-3-12 of City code.

SECTION 3-3-13 LOT PLANNING:

- A. Lot Width, Depth, and Area: The lots are in conformance with the specifications stipulated for the zoning in Elko City Code 3-2-5.
- B. Building Setback: The proposed subdivision, when developed, can meet setback requirements as stipulated in Elko City Code 3-2-5(G).
- C. Side Lot Lines: The side lot lines are generally at right angles to the interior driveway. Deviations occur on inside curves and are appropriate.
- D. Accessibility: The development abuts a public street. All residents will have access to N 5th Street.
- E. Prohibitions: No units shall have direct access to N 5th Street. All access is to be through the proposed driveway.

The proposed subdivision is in conformance with Section 3-3-13 of City code with the note added as part of section E (above).

SECTION 3-3-14 EASEMENT PLANNING:

- A. Utility Easements: Typical side and rear yard easements are already in place. Easements exist for public utilities and power lines that run across the center of the property. The easement along the eastern property line for an existing water main is being widened to match the route of the main. A new access easement is provided to allow City staff to access the new utility and drainage infrastructure in the southeast corner.
- B. Underground Utilities: Overhead utilities are not typically allowed within new subdivisions. However, the power lines crossing the middle of the parcel are part of a

larger main line that would be difficult to place underground, if NV Energy was willing to do that.

- C. Lots Facing Curvilinear Streets: None of the proposed lots face curvilinear streets.
- D. Public Drainage Easement: Typical side and rear yard easements for drainage and/or utilities are already in place.
- E. Easement Land Not Considered and Considered in Minimum Lot Area Calculation: All calculations appear to be correct.
- F. Lots Backing Onto Arterial Streets: There are no lots proposed which back onto an arterial street.
- G. Water and Sewer Lines: The utilities are shown in the streets, within existing side or rear easements, and in the proposed driveway access. Sanitary sewer will tie into the existing city infrastructure via an existing easement from the southeast corner of the parcel running south through the adjacent parcel.

The proposed subdivision is in conformance with Section 3-3-14 of City code.

SECTION 3-3-15 STREET NAMING:

No new streets are proposed as part of this project.

The proposed subdivision is in conformance with Section 3-3-15 of City code.

SECTIONS 3-3-16 STREET LIGHT DESIGN STANDARDS:

Conformance is required with the submittal of construction plans.

SECTION 3-3-17 through 3-3-22 (inclusive):

All referenced sections are applicable to Final Map submission, approval, and construction plans.

SECTION 3-3-23 PARK LAND DEDICATIONS:

There is no offer of dedication for park lands.

SECTION 3-2-3 GENERAL PROVISIONS:

Section 3-2-3(C)(1) of City code specifies use restrictions. The following use restrictions shall apply:

Principal Uses: Only those uses and groups of uses specifically designated as “principal uses permitted” in zoning district regulations shall be permitted as principal uses; all other uses shall be prohibited as principal uses.

Accessory Uses: Uses normally accessory and incidental to permitted principal or conditional uses may be permitted as hereinafter specified.

Other uses may apply under certain conditions with application to the City.

Section 3-2-3(D) states that: “No land may be used or structure erected where the land is held by the planning commission to be unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, extreme topography, low bearing strength, erosion susceptibility, or any other features likely to be harmful to the health, safety, and general welfare of the community. The planning commission, in applying the provisions of this section, shall state in writing the particular facts upon which its conclusions are based. The applicant shall have the right to present evidence contesting such determination to the city council if he or she so desires, whereupon the city council may affirm, modify, or withdraw the determination of unsuitability.”

The proposed subdivision and development is in conformance with Section 3-2-3 of City code.

SECTION 3-2-4 ESTABLISHMENT OF ZONING DISTRICTS:

1. Section 3-2-4(B) Required Conformity to District Regulations: The regulations set forth in this chapter for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as provided in this subsection.
2. Section 3-2-4(B)(4) stipulates that no yard or lot existing on the effective date hereof shall be reduced in dimension or area below the minimum requirements set forth in this title.

The proposed subdivision is in conformance with Section 3-2-4 of City code.

SECTION 3-2-5(E) R – SINGLE FAMILY AND MULTIPLE FAMILY RESIDENTIAL:

Section 3-2-5(E)(2) Principal Uses Permitted:

1. Adult care facility serving ten (10) or fewer.
2. Electric power substations, sewer lift stations, and water pump stations wherein service to district residents requires location within the district.
3. Multiple-family residential units, including a duplex, triplex, or a fourplex located on a single lot or parcel, provided area and setback requirements are met.
4. One single-family dwelling of a permanent character in a permanent location with each dwelling unit on its own parcel of land and provided all area and setback requirements are met.
5. Publicly owned and operated parks and recreation areas and centers.
6. Residential facility for groups of ten (10) or fewer.

With the approval of the associated Rezone, the proposed subdivision and development is in conformance with Section 3-2-5(E)(2). Conformance with Section 3-2-5(E) is required as the subdivision develops.

SECTION 3-2-5(G) RESIDENTIAL ZONING DISTRICTS AREA, SETBACKS, AND HEIGHT:

1. Lot areas are shown.

2. Lot dimensions are shown. The lot dimensions are in conformance with Section 3-2-5(G) of City code.

The proposed subdivision and development is in conformance with Section 3-2-5(G) of City code.

SECTION 3-2-17 TRAFFIC, ACCESS, PARKING, AND LOADING:

1. N 5th Street is designated as a Minor Arterial in the Master Plan. No new streets are being proposed as part of the proposal.
2. The proposed lots are large enough to develop the required off-street parking. Each townhouse unit will include a two-car garage within the individual lots. Additional guest parking will be provided in the common lot owned and maintained by the Homeowner's Association.
3. The access driveway is designed to line up with the existing intersection of Rolling Hills Drive.

The proposed subdivision and development is in conformance with Section 3-2-17 of City code. Conformance with Section 3-2-17 is required as the subdivision develops.

SECTION 3-8 FLOOD PLAIN MANAGEMENT:

The proposed subdivision and development is not located in a designated special flood hazard area and is in conformance with Section 3-8 of City Code.

TITLE 9, CHAPTER 8 POST CONSTRUCTION RUNOFF CONTROL AND WATER QUALITY MANAGEMENT:

Final design of the subdivision is required to conform to the requirements of this title. The Tentative Map storm drain infrastructure is shown through the area.

OTHER:

The following permits will be required for the project:

1. State storm water general permit: Required submittals to the City of Elko are a plan view showing the storm water controls, a copy of the Storm Water Pollution Prevention Plan (SWPPP) and a copy of the certified confirmation letter from the Nevada Department of Environmental Protection.
2. A Surface Area Disturbance (SAD) is required if the disturbed area is equal to or greater than five (5) acres. A copy of the SAD permit is required to be submitted to the City of Elko.
3. A street cut permit from the City of Elko.
4. A grading permit from the City of Elko.
5. All other applicable permits and fees required by the City of Elko.
6. The City of Elko also requires submittal of the plans to the individual utility companies before permits will be issued for the project.

FINDINGS

1. The proposed subdivision and development is in conformance with the Land Use and Transportation components of the Master Plan.
2. The proposed subdivision and development does not conflict with the Airport Master Plan, the City of Elko Development Feasibility, Land Use, Water Infrastructure, Sanitary Sewer Infrastructure, Transportation Infrastructure, and Annexation Potential Report – November 2012, or the Wellhead Protection Program.
3. The property is not located within the Redevelopment Area.
4. A zoning amendment is required for the proposed subdivision. This application has been submitted to the Planning Department.
5. In accordance with Section 3-3-5(E)(2), the proposed subdivision and development will not result in undue water or air pollution based on the following:
 - a. There are no obvious considerations or concerns which indicate the proposed subdivision would not be in conformance with all applicable environmental and health laws and regulations.
 - b. There is adequate capacity within the City's water supply to accommodate the proposed subdivision.
 - c. The proposed subdivision and development will not create an unreasonable burden on the existing water system.
 - d. There is adequate capacity at the Water Reclamation Facility to support the proposed subdivision and development.
 - e. The proposed subdivision and development will be connected to the City's programed sanitary sewer system. Therefore, the ability of soils to support waste disposal does not require evaluation prior to Tentative Map approval.
 - f. Utilities are available in the immediate area and can be extended for the proposed development.
 - g. Schools, fire and police, and recreational services are available throughout the community.
 - h. The proposed subdivision and development will not cause unreasonable traffic congestion or unsafe conditions with respect to existing or proposed streets.
 - i. The area is not located within a designated flood zone. Concentrated storm water runoff has been addressed as shown on the grading plan.
 - j. The proposed subdivision and development is not expected to result in unreasonable erosion or reduction in the water-holding capacity of the land thereby creating a dangerous or unhealthy condition.
6. The proposed subdivision is in conformance with Sections 3-3-6, and 3-3-9 through 3-3-15 of City code.
7. The proposed subdivision and development is in conformance with Section 3-2-3 through 3-2-5, and 3-2-17 of City code.

8. The proposed subdivision and development is not located in a designated flood hazard area and is in conformance with Section 3-8 of City code.
9. The proposed subdivision design shall conform to Title 9, Chapter 8 of City code.

STAFF RECOMMENDATION:

Staff recommends this item be **conditionally approved** with the following conditions:

Development Department:

1. Conditional Use Permit 4-20 must be approved and all conditions be met.
2. Rezone 5-20 must be approved and in place and any/all conditions be met.
3. The subdivider is to comply with all provisions of the NAC and NRS pertaining to the proposed subdivision.
4. Tentative Map approval constitutes authorization for the subdivider to proceed with preparation of the Final Map and associated construction plans.
5. The Tentative Map and construction plans must be approved by the Nevada Department of Environmental Protection prior to submitting for Final Map approval to the City of Elko.
6. Tentative Map approval does not constitute authorization to proceed with site improvements.
7. The applicant must submit an application for Final Map within a period of four (4) years in accordance with NRS.360(1)(a). Approval of the Tentative Map will automatically lapse at that time.
8. A soils report is required with Final Map submittal.
9. A hydrology report is required with Final Map submittal.
10. Final Map construction plans are to comply with Chapter 3-3 of City code.
11. The subdivision design and construction shall comply with Title 9, Chapter 8 of City code.
12. The Utility Department will issue an Intent to Serve letter upon approval of the Tentative Map by the City Council.
13. Submit CC&Rs prior to approval by the City Council.
14. Add a note to the map restricting access to individual townhomes from N 5th Street.

Engineering Department:

1. Sheet T1 – Revise note 1. Townhome parcels should not be subject to additional easements.
2. Sheet T1 – Revise location of proposed 15-foot utility easement, to align with the sewer and to not encroach onto the adjacent parcel.
3. Sheet T3 – Revise location of proposed hammerhead turnaround for fire, to not include any unpaved areas or parking stalls.
4. Sheet T3 – Revise sewer design so that no proposed manhole turns the flow more than 90 degrees. This occurs at the manhole on Dakota Drive, and possibly at the northerly end of the existing 25-foot easement.
5. Sheet T3 – Center the proposed sewer line in the existing easement to allow adequate room on both sides for trenching.
6. All Sheets – Signature of design professional is required on final submittal.

Fire Department:

1. Fire Department access roads shall be provided and maintained in accordance with Sections 5-3.1.1 of the 2018 IFC.

Public Works Department:

1. All public improvements to be installed at time of development per Elko city code.

Tentative Map 6-20 - Jarbidge Estates - CC

YPNO	assess_nam	address1	address2	mcity	mzip
00161A025	BRANNEN CHARLES E & BERTHA D	100 SANDSTONE CT		ELKO, NV	89801-8420
001610094	ELKO CITY OF } nope	1755 COLLEGE AVE		ELKO, NV	89801-
001610103	ELKO CITY OF }	1755 COLLEGE AVE		ELKO, NV	89801-3400
001610113	GRACE BAPTIST CHURCH } 1pc	3030 5TH ST		ELKO, NV	89801-4470
001610112	GRACE BAPTIST CHURCH }	3030 5TH ST		ELKO, NV	89801-4470
00161A018	MOSER NORMAN GUY	66 E MARS WAY		SANDY, UT	84070-1040
00161A017	VALLEY KEVIN & RUTH	102 ROLLING HILLS DR		ELKO, NV	89801-8400
00161A026	VANCE JERID S & AMANDA K	101 SANDSTONE CT		ELKO, NV	89801-8420

5

Post Marked 10/2/20

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Elko City Council will conduct a series of public hearings on Tuesday, October 13, 2020 beginning at 5:30 P.M. P.D.S.T. in the Turquoise Room at the Elko Convention Center, 700 Moren Way, Elko, Nevada, and that the public is invited to provide input and testimony on these matters under consideration in person, by writing, or by representative.

The specific item to be considered under public hearing format is:

- **Tentative Map No. 6-20, filed by Legion Construction and Development, LLC, for the development of a subdivision entitled Jarbidge Estates, involving the proposed division of approximately 2.16 acres of property into 18 lots for residential development and 1 common lot within the R (Single-Family Residential) Zoning District, and matters related thereto. The subject property is located on the east side of N 5th Street at the intersection of Rolling Hills Drive. (APN 001-610-093)**

Additional information concerning this item may be obtained by contacting the Elko City Planning Department at (775) 777-7160.

ELKO CITY COUNCIL



* - Properties to receive
Public Hearing notices



CITY OF ELKO

Planning Department

Website: www.elkocity.com

Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

September 9, 2020

Bureau of Water Pollution Control
Nevada Division of Environmental Protection
901 S. Stewart Street, Suite 4001
Carson City, Nevada 89701-5249

Subject: Jarbidge Estates, 18 Lots and 1 Common Area – Elko, Nevada

Attached are two copies of the Tentative Map for Jarbidge Estates in Elko, Nevada. This single family subdivision has 18 lots and a common area. This subdivision's water supply will be the City of Elko's municipal water system. The subdivision will also be served by the City of Elko Sanitary Sewer System and Storm Drainage System. Upon approval of the Tentative Map by the Elko City Council Dale Johnson, Utilities Director, will provide an Intent to Serve Letter to applicable state agencies.

Also enclosed is the review fee of \$457.00, Check No. 1005

Please let me know if you have any questions.

Sincerely,

Shelby Archuleta
Planning Technician
City of Elko Planning Department
sarchuleta@elkocitynv.gov

CC: John Smales, Via Email
Mike Shanks, Via Email



CITY OF ELKO

Planning Department

Website: www.elkocity.com
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

September 9, 2020

State of Nevada
Division of Water Resources
901 S. Stewart Street, Suite 2002
Carson City, Nevada 89701

Subject: Jarbidge Estates, 18 Lots and 1 Common Area – Elko, Nevada

Attached are two copies of the Tentative Map for Jarbidge Estates in Elko, Nevada. This single family subdivision has 18 lots and a common area. The subdivision's water supply will be the City of Elko's municipal water system. Upon approval of the Tentative Map by the Elko City Council Dale Johnson, Utilities Director, will provide an Intent to Serve Letter to applicable state agencies.

Also enclosed is the review fee of \$199.00, Check No. 1007

Please let me know if you have any questions.

Sincerely,

Shelby Archuleta
Planning Technician
City of Elko Planning Department
sarchuleta@elkocitynv.gov

CC: John Smales, Via Email
Mike Shanks, Via Email

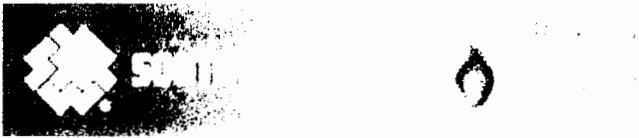
Shelby Archuleta

From: Amanda Marcucci <Amanda.Marcucci@swgas.com>
Sent: Thursday, August 13, 2020 6:56 AM
To: Shelby Archuleta
Subject: Tentative Map No. 6-20/Jarbridge Estates
Attachments: Tentative Map 6-20.pdf

Hi Shelby,

Southwest Gas does not have any objections to Tentative Map No. 6-20/Jarbridge Estates.

Amanda



Amanda Marcucci, PE | Supervisor/Engineering

PO Box 1190 | 24A-580 | Carson City, NV 89702 1190
direct 775.887.2871 | mobile 775.430.0723 | fax 775.882.6072
amanda.marcucci@swgas.com | www.swgas.com

The information in this electronic mail communication (e-mail) contains confidential information which is the property of the sender and may be protected by the attorney-client privilege and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized by the sender. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of the contents of this e-mail transmission or the taking or omission of any action in reliance thereon or pursuant thereto, is prohibited, and may be unlawful. If you received this e-mail in error, please notify us immediately of your receipt of this message by e-mail and destroy this communication, any attachments, and all copies thereof.

Southwest Gas Corporation does not guarantee the privacy or security of information transmitted by facsimile (fax) or other unsecure electronic means (including email). By choosing to send or receive information, including confidential or personal identifying information, via fax or unencrypted e-mail, you consent to accept any associated risk.

Thank you for your cooperation.



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

July 31, 2020

Southwest Gas Corporation
Engineering Department
PO Box 1190
Carson City, NV 89702

SUBJECT: Tentative Map No. 6-20/Jarbidge Estates

To Whom It May Concern:

Enclosed for your review and information is a copy of the submitted tentative map for the proposed Jarbidge Estates subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their September 1, 2020 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

July 31, 2020

NV Energy
Mr. Robert Lino
4216 Ruby Vista Dr.
Elko, NV 89801-1632

SUBJECT: Tentative Map No. 6-20/Jarbidge Estates

Dear Mr. Lino:

Enclosed for your review and information is a copy of the submitted tentative map for the proposed Jarbidge Estates subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their September 1, 2020 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

July 31, 2020

Frontier Communications
John Poole
1520 Church Street
Gardnerville, NV 89410

SUBJECT: Tentative Map No. 6-20/Jarbidge Estates

Dear Mr. Poole:

Enclosed for your review and information is a copy of the submitted tentative map for the proposed Jarbidge Estates subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their September 1, 2020 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

July 31, 2020

Elko County School District
Ms. Michele Robinson
PO Box 1012
Elko, NV 89803

SUBJECT: Tentative Map No. 6-20/Jarbidge Estates

Dear Ms. Robinson:

Enclosed for your review and information is a copy of the submitted tentative map for the proposed Jarbidge Estates subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their September 1, 2020 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



CITY OF ELKO

Planning Department

Website: www.elkocitynv.gov
Email: planning@elkocitynv.gov

1751 College Avenue • Elko, Nevada 89801 • (775) 777-7160 • Fax (775) 777-7219

July 31, 2020

Zito Media

Mr. Joe Bates

VIA Email: joe.bates@zitomedia.com

SUBJECT: Tentative Map No. 6-20/Jarbidge Estates

Dear Mr. Bates:

Enclosed for your review and information is a copy of the submitted tentative map for the proposed Jarbidge Estates subdivision, which is tentatively scheduled for consideration by the Elko City Planning Commission at their September 1, 2020 meeting.

Please submit written comments to the Elko City Planning Department. If we do not receive written comments prior to the scheduled meeting, we will assume you have no concerns regarding this application.

Thank you for your attention to this matter.

Sincerely,

Shelby Archuleta
Planning Technician

Enclosures



City of Elko – Development Department
1755 College Avenue
Elko, NV 89801
Telephone: 775.777.7210
Facsimile: 775.777.7219

July 29, 2020

Shanks Engineering
Attn: Mike Shanks
982 Wolf Creek Drive
Spring Creek, NV 89815

Re: Jarbridge Estates – Complete Submittal

Dear Mr. Shanks:

The City of Elko has reviewed your Tentative Map application materials for Jarbridge Estates (submitted July 27, 2020) and has found them to be complete. We will now begin processing your application by transmitting the materials to other City departments for their review. You may receive further comments or corrections as these reviews progress. Barring any complications, this Tentative Map will be scheduled for Planning Commission on September 1, 2020 and City Council on September 22, 2020.

I will keep you updated on the status of your application, but please feel free to contact me at (775) 777-7217 if you have any questions.

Sincerely,

Michele Rambo, AICP
Development Manager
mrambo@elkocitynv.gov

CC: Legion Construction and Development LLC
Attn: John Smales
599 Shadybrook Drive
Spring Creek, NV 89815

City of Elko – File



City of Elko – Development Department
1755 College Avenue
Elko, NV 89801
Telephone: 775.777.7210
Facsimile: 775.777.7219

July 22, 2020

Shanks Engineering
Attn: Mike Shanks
982 Wolf Creek Drive
Spring Creek, NV 89815

Re: Jarbridge Estates – Incomplete Submittal

Dear Mr. Shanks:

The City of Elko has reviewed your Tentative Map application materials for Jarbridge Estates (submitted July 21, 2020) and has found it to be incomplete. Please revise the Tentative Map to include the information listed below.

1. A location map showing the location of the parcel to be divided.
2. A full legal description of the property boundaries.
3. Estimated amount (cubic yards) of cut and fill

In addition, a copy of the CC&Rs for the development will be required. Please submit these as soon as possible.

Please resubmit the revised Tentative Map plans by August 7, 2020 to ensure sufficient time for other departments to review and comment prior to the September 1, 2020 Planning Commission meeting. Please include in your resubmittal a new PDF copy of the revised Tentative Map. As outlined in Section 3-3-5(C)(4), these revisions must be received within 90-days of the original filing date (July 21, 2019), or the submittal will automatically expire.

Please contact me at (775) 777-7217 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Michele Rambo". The signature is fluid and cursive, with a large loop at the end of the last name.

Michele Rambo, AICP
Development Manager
mrambo@elkocitynv.gov

CC: Legion Construction and Development LLC
Attn: John Smales
599 Shadybrook Drive
Spring Creek, NV 89815

City of Elko – File



CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7219 fax

APPLICATION FOR TENTATIVE MAP (STAGE II) APPROVAL

****PRIOR TO SUBMITTING THIS APPLICATION, PRE-APPLICATION (STAGE I) MUST BE COMPLETE****

APPLICANT(s): Legion Construction and Development LLC

MAILING ADDRESS: 599 Shadybrook Dr, Spring Creek, NV 89815

PHONE NO (Home): 775-778-1539

(Business): Same

EMAIL: johns.builder@gmail.com

NAME OF PROPERTY OWNER (If different):

(Property owner consent in writing must be provided)

MAILING ADDRESS:

LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):

ASSESSOR'S PARCEL NO.: 001-610-093

Address N 5th Street

Lot(s), Block(s), & Subdivision

Or Parcel(s) & File No. 001-610-093 PARCEL 1 FILE 415475

APPLICANT'S REPRESENTATIVE: Mike Shanks

MAILING ADDRESS: 982 Wolf Creek Drive, Spring Creek, Nevada 89815

PHONE NO: 775-9349356

EMAIL: shankseng@gmail.com

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed. *Complete* applications are due at least 42 days (6 weeks) prior to the next scheduled meeting of the Elko City Planning Commission (meetings are the 1st Tuesday of every month), and must include the following:

1. One .pdf of the entire application, and three (3) 24" x 36" copies of the tentative map, grading plan, and utility plan folded to a size not to exceed 9"x12" provided by a properly licensed surveyor or civil engineer, and any required supporting data, prepared in accordance with Section 3-3-5(C) and 3-3-6 of the Elko City Code (see attached checklist).
2. A Development Master Plan when, in the opinion of the Planning Commission, the proposed subdivision possesses certain characteristics, such as size, impact on neighborhoods, density, topography, utilities, and/or existing and potential land uses, that necessitate the preparation of a Development Master Plan.
3. Applications/fees for State of Nevada review. (See Page 5)

Fee: \$750.00 + \$25.00 per lot including remainder parcels; non-refundable.

1200

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

PROJECT DESCRIPTION OR PURPOSE:

The property will be subdivided into 18 town homes. The town homes will be two story and contain approximately 1471 square feet with 466 sft two car garages. The units will be combined to form 2, 3, and 4 unit clusters. They will have approximately 15 foot rear yards and 20 foot deep driveways that will accommodate two on site parking spaces independent from the garages. The total project contains 2.16 acres. The individual town home lots contain approximately 1461 square feet.

(Use additional pages if necessary)

Tentative Map Checklist as per Elko City Code 3-3-6

Date	Name
Identification Data	
✓	Subdivision Name
✓	Location and Section, Township and Range
✓	Reference to a Section Corner or Quarter-Section Corner
✓	Name, address, phone number, and email of subdivider
✓	Name, address, phone number, and email of engineer/surveyor
✓	Scale, North Point and Date of Preparation
✓	Dates of Revisions
✓	Location maps
✓	Legal description of boundaries
Existing Conditions Data	
✓	2' contours on city coordinate system
✓	Location of Water Wells
✓	Location of Streams, private ditches, washes and other features
✓	Location of Designated flood zones
✓	The Location, widths and Names of all platted Streets, ROW
✓	Municipal Corporation Lines
✓	Name, book and page numbers of all recorded plats
✓	Existing Zoning Classifications in conformance with Master Plan Land Use
✓	Zoning of Adjacent Properties
✓	Dimensions of all tract boundaries, gross and net acreage
Proposed Conditions Data	
✓	Street Layout, location, widths, easements
✓	Traffic Impact Analysis
✓	Lot Layout, including dimensions of typical lots
✓	Corner Lot Layout
✓	Lot layout on Street Curves
✓	Each lot numbered consecutively
✓	Total number of lots
✓	Location, Width and proposed use of easements
✓	Location, extent and proposed use of all land to be dedicated
✓	Location and boundary of all proposed zoning districts
✓	Draft of proposed deed restrictions
✓	Preliminary Grading Plan
✓	Conceptual cut and fill
✓	Estimated quality of material to be graded
Proposed Utilities	
✓	Sewage Disposal, design for sewage disposal
✓	Water Supply, Evidence of adequate volume and quality
✓	Storm Drain, Preliminary Calculations and Layout
✓	Telephone, Power, Gas, Television
✓	Intent to Serve Letter from Utility Department

By My Signature below:

☒ I consent to having the City of Elko Staff enter on my property for the sole purpose of inspection of said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not affect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☐ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent Legion Construction and Development LLC
(Please print or type)

Mailing Address 599 Shadybrook Dr.
Street Address or P.O. Box
Spring Creek, NV 89815
City, State, Zip Code

Phone Number: 775-778-1539

Email address: johns.builder@gmail.com

SIGNATURE:


John Smokes president

FOR OFFICE USE ONLY

File No.: 6-20 Date Filed: 7/21/20 Fee Paid: \$1,225 ex# 236
18 Lots + Common Area = 19 x 25 = 475
\$750
\$1,225

APN: TBD

RECEIVED

APR 24 2024

When Recorded Return to:

Legion Construction and Development LLC

599 Shadybrook Drive

Spring Creek, NV 89815

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR JARBIDGE ESTATES

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
JARBIDGE ESTATES**

THIS DECLARATION is made this ____ day of _____, 2020 by LEGION CONSTRUCTION AND DEVELOPMENT, LLC, developer, as Declarant.

WITNESSETH, that:

WHEREAS, the Declarant is the owner of that certain real property located in the City of Elko, County of Elko, State of Nevada, (herein called the "Property"), more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, Declarant desires to create and develop upon the Property a planned unit development (herein called the "Project") of Townhouses) with permanent parking, common areas and other facilities for the benefit of the Property and all present and future Owners and residents there; and

WHEREAS, in order to prevent the Project from diminishing in value or pleasurable enjoyment, Declarant desires to:

- a. Subject the Property and each and every part and parcel thereof, to the conditions, covenants, restrictions, reservations, easements, charges, and liens hereinafter set forth (all herein sometimes collectively called "Covenants"), each and all of which is and are for the benefit of the Property and each and every part and parcel thereof and each Owner thereof and their respective heirs, legal representatives, successors and assigns, and shall inure to the benefit of and shall be binding upon and shall pass with each and every part and parcel thereof; and
- b. Provide for membership in the Association (as hereinafter defined) by the Owners from time to time of Lots.

NOW THEREFORE, Declarant hereby declares that the Property and each and every part and parcel thereof shall be held, transferred, sold, conveyed, and occupied subject to the Covenants hereinafter set forth, all of which Covenants shall run with the Property and be binding upon any party having any right, title, or interest therein or in any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I.

DEFINITIONS.

1.01. Association. The term "Association" shall mean, include, and refer to JARBIDGE ESTATES ASSOCIATION, a Nevada not-for-profit corporation, its successors and assigns.

1.02. Board of Directors. The term "Board of Directors" shall mean, include, and refer to the Board of Directors of the Association as may be from time to time elected and qualified as provided for in the Articles of Incorporation and the Bylaws of the Association.

1.03. Common Areas. The term "Common Areas" shall mean, include, and refer to all of the Property excepting Lots as hereinafter defined.

1.04. Parking Area. The term "Parking Area" shall mean, include, and refer to such part of the Common Areas as shall be designated and set aside by the Association for the parking of automobiles; and the term "Parking Space" shall mean, include, and refer to a space in a Parking Area specifically designated by the Association for the parking of automobiles.

1.05. Lots. The term "Lots" shall mean, include, and refer to those parcels of the Property so described in Exhibit A attached hereto and made a part hereof; and the term "Lot" shall mean, include, and refer to one (1) of the Lots.

1.06. Building. The term "Building" shall mean, include, and refer to any structure having a roof and enclosed by walls and shall include all appendages thereto, whether or not enclosed, including, without limitation, outside stoops, stairways, porches, balconies, patios, ledges, gutters, chimneys, and the like.

1.07. Townhouse. The term "Townhouse" shall mean, include, and refer to a Building constructed upon a Lot containing not more than two (2) Dwelling Units.

1.08. Multifamily Building. The term "Multi-family Building" shall mean, include, and refer to a Building constructed upon a Lot containing more than two (2) Dwelling Units.

1.09. Dwelling Unit. The term "Dwelling Unit" shall mean, include, and refer to one (1) or more rooms which are arranged or designed as living quarters for one (1) family only.

1.10. Family. The term "Family" shall mean, include, and refer to one (1) or more Persons, each related to the other by blood, marriage, or legal adoption; or a group of Persons not so related maintaining a common household in a Dwelling Unit, the number of which may be determined by the Association.

1.11. Owner. The term "Owner" shall mean, include, and refer to the record owner, whether one (1) or more persons, including Declarant where applicable, of the fee simple title to any Lot, but shall not mean, include or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding or transfer in lieu of foreclosure.

1.12. Person. The term "Person" shall mean, include, and refer to a natural person or a corporation, partnership, trust, firm, governmental agency, or subdivision or other legal entity.

1.13. Utility. The term "Utility" shall mean, include, and refer to storm sewers, sanitary sewers, water, electricity, gas, telephone, and other items generally referred to as utilities; and the term "Utility Company" shall mean, include, and refer to a Person furnishing a Utility.

ARTICLE II. PROPERTY RIGHTS.

2.01. Owner's Easements of Enjoyment. Every Owner and his family, tenants, agents, and guests shall have a right and easement of enjoyment in and to the Common Areas, which right and easement shall be appurtenant to and which shall pass with title to every Lot, subject to:

- a. The right of the Association to reasonably limit the use of the Common Areas by guests.
- b. The right of the Association to suspend the voting rights and the right to use and enjoyment of any Common Areas and facilities thereof, except ingress and egress to and from his Lot and except the use of his parking space, either assigned or generally if none has been assigned to him, for any period during which any Assessment (as hereinafter defined) against his Lot remains unpaid; and for a period not to exceed sixty (60) days for an infraction of the Association's published Rules and Regulations.
- c. The right of the Association to dedicate, sell, or transfer all or any part of the Common Areas or any interest therein or easement thereon to any public, quasi-public, or private agency, authority, or Utility as provided for in Section 5.12 hereof.
- d. The right of individual Owners to the exclusive use of Parking Spaces in the Parking Area as may be designated by the Association pursuant to the provisions of Section 5.05 hereof.

2.02. Parking. Ownership of each Lot shall entitle the Owner or Owners thereof to the exclusive use of Parking Spaces in the Parking Area as follows:

- a. The Owner of each Lot shall have the right to use the parking spaces designated as "guest parking" on an available basis.
- b. The Guest Parking shall not be used as parking for storage of boats, ATVs, recreational vehicles, excess vehicles of any unit owner or otherwise used as a storage facility.
- c. Guest Parking shall not be considered extended parking on any occasion. Vehicles may not remain in guest parking for more than three (3) consecutive nights nor more than seven (7) total nights in a 30 day period.
- d. No unregistered vehicles should be parked anywhere upon the property, including Guest Parking.

2.03. Delegation of Use. Any Owner may delegate, in accordance with the provisions and limitations of the Rules and Regulations of the Association, such Owner's right of enjoyment of the Common Areas and facilities to the members of his family, his tenants, agents, and guests or to contract purchasers who reside in any Dwelling Unit on such Lot.

2.04. Survival. Notwithstanding any termination hereof or any amendment hereof or any action taken pursuant hereto, no Lot shall be deprived of its easement for ingress and egress without the consent of the Owner and mortgagee of such Lot, which easement shall survive any such termination, amendment or action. Neither the termination hereof, nor any amendment hereof shall terminate, limit, or abridge any easement granted by Article X for the repair, maintenance, or replacement of any Utility Connection (as defined in Paragraph 10.02) without the consent of the City of Elko with respect to easements for sewer and water lines or Connections and without the consent of any Utility Company furnishing any other utility service with respect to easements for lines or Connections providing such utility service.

ARTICLE III. BUILDING AND USE RESTRICTIONS.

3.01. Buildings. No Building or other structure shall be erected or constructed upon any Lot, except new Townhouses or Multifamily Buildings erected in accordance with the provisions of Article VII hereof; and no Lot shall be used, either temporarily or permanently, for any other purpose, except for temporary use as may be reasonably necessary in connection with the construction and erection of Townhouses, Multifamily Buildings, or improvements upon the Common Areas.

3.02. Use of Dwelling Units. No Dwelling Unit shall be used or occupied for any purpose other than as a residence, and no Dwelling Unit may be so occupied by more than one (1) Family.

3.03. Animals. No animal, livestock, or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on the Common Areas, except for no more than (2) dogs, cats, or other household pets, which may be subject to Rules and Regulations promulgated by the Association, kept in a Dwelling Unit for other than commercial purposes.

3.04. Restrictions. No advertising signs, billboards, objects of unsightly appearance or nuisance (including, without limitation, clotheslines, garbage containers, or the like) shall be erected, placed, or permitted to remain in or on any Building or Dwelling Unit or Common Area, nor shall any Building or Dwelling Unit or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the residents of the Property, nor shall any Building or Dwelling Unit or Common Area be used for commercial activities of any kind; provided, that the foregoing restrictions shall not apply to:

a. The maintenance of not more than one (1) "for rent" or "for sale" sign of not more than five (5) square feet which may be maintained by an Owner thereof on any

Building; or

b. Commercial activity, signs, or billboards of Declarant, its agents, employees, and designees during the construction and sale period or by the Association in furtherance of its powers and purposes herein set forth and in its Articles of Incorporation, Bylaws, Rules, and Regulations, as the same may be amended from time to time.

3.05 All buildings should be maintained with earth tones that are complimentary to the other buildings and units; shall have only stucco exteriors and aluminum soffit and fascia.

In the event that any Owner or his agents, tenants, guests, or occupants shall violate any of the provisions of this Section, and shall not cease and cure the same upon demand, the Association may take such action, in connection therewith, as the Association may deem appropriate, including, without limitation, the physical removal or correction of any violations, the institution of legal proceedings or otherwise, and for such purpose, the Association shall have the right and is hereby granted an easement to come upon any Lot and any Building and Dwelling Unit thereon at reasonable times upon giving reasonable notice to the Owner or his agents; and all costs and expenses thereof, including reasonable legal fees shall be assessed against such Owner and his Lot as a Special Assessment as provided for in Article VI hereof.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS.

4.01. Owners as Members. It is understood and agreed that:

- a. Every Owner of a Lot shall be a member of the Association.
- b. Membership shall be appurtenant to and may not be separated from ownership of a Lot.
- c. Each person acquiring title to a Lot, by acceptance of a deed or other conveyance therefor, covenants and agrees to be a member of the Association, whether or not it shall be so expressed in such deed or other conveyance, provided that any person which holds such interest merely as security for the performance of an obligation shall not be a member.

4.02. Multiple Ownership. When more than one (1) person is the Owner of any Lot, all such persons shall be members, provided, that the votes for such Lot shall be exercised as may be determined by a majority in interest of such co-owners, or otherwise, as they may determine.

4.03. Voting Rights. Each Owner of a Lot shall be entitled to one (1) vote for each Dwelling Unit contained within such Lot.

4.04. Proxies. The casting of any vote may be made in person or by proxy; and any votes present by proxy shall be deemed present in connection with any determination

of a quorum or for any other purpose.

4.05. Notices and Quorums. Written notice of any meeting wherein any action authorized pursuant to Sections 5.12, 6.03(b)(iii), 6.04, 11.05, or 11.06 hereof may be taken, shall be sent to all members of the Association not less than ten (10) days or more than thirty (30) days in advance of such meeting, and a quorum shall be deemed present at any such meeting only as follows:

a. At the first meeting held pursuant to such notice, the presence of members of the Association, in person or by proxy, entitled to cast fifty percent (50%) of all votes of the Association shall constitute a quorum.

b. If the required quorum is not present at any meeting so held, a majority of the votes present may adjourn such meeting from time to time without further notice provided, that except as otherwise herein expressly provided, all notices of meetings of members of the Association, the existence of a quorum or the votes necessary to pass any measure shall be governed by the Bylaws of the Association in effect from time to time.

ARTICLE V.

RIGHTS, DUTIES, AND POWERS OF THE ASSOCIATION.

5.01. General. In addition to its other rights, duties, and powers as set forth herein and in its Articles of Incorporation, Bylaws and Rules and Regulations (as the same may be amended from time to time), all rights, duties, and powers relating to the management, operation, and maintenance of Common Areas as well as certain rights, duties, and powers relating to the Lots as herein set forth, shall be vested in the Association, acting through its Board of Directors and subject to the provisions and limitations herein set forth.

5.02. Agents and Employees. The Association may employ or engage a manager and/or other employees or agents, and contract for such services, labor and materials as the Board of Directors may deem reasonably necessary to operate and maintain the Common Areas and the facilities thereon and to discharge the other duties of the Association as herein provided for.

5.03. Maintenance of Common Areas. The Association shall be responsible for maintaining the Common Areas and all improvements thereon and any and all furnishings and equipment relating thereto in good, clean, attractive, and sanitary order and repair and, without limiting the generality of the foregoing, the Association shall provide for landscaping, rubbish removal, and snow removal in connection with the Common Areas, and shall operate and maintain any and all Common Areas. The Association shall provide snow removal for roads and parking lots, Owners shall be responsible for their own driveway and sidewalk snow removal, exterior of home, fences and landscaping on their own lot.

5.04. Parking Area. The Association shall allocate Parking Spaces within the Parking Area in accordance with the provisions of Section 2.02 hereof.

5.05. Exterior Maintenance of Areas. The Association shall provide exterior maintenance in connection with each Lot, and to the common areas only as follows: driveways, parking lots, shrubs, grass, walks, and other exterior improvements (but not including shrubs, grass, landscaping, walks, fences or patios within a Lot). The Association shall be responsible for the parking lots and common areas, as well as providing trash dumpsters for all garbage and refuse; provided that in the event the need for maintenance or repair is caused through the willful or negligent act of the Owner, his Family, his guests, or invitees, the cost of any maintenance or repairs so caused shall be assessed against such Owner and his Lot as a Special Assessment as provided for in Article VI hereof. Should any lot owner fail to maintain fencing and receive a notice to make repairs, the Association may make sure repairs and charge back the expense to the Lot owner in the form of a lien.

5.06. Insurance. The Association shall keep and maintain fire and public liability insurance upon Common Areas and all improvements thereon in such amounts and limits as may be determined from time to time by the Association.

5.07. Rules and Regulations. The Association may adopt, and from time to time revise and amend, reasonable rules and regulations (herein called the "Rules and Regulations") regarding the use of the Common Areas and other facilities situated thereon by Owners or tenants and their guests and for other purposes as herein provided; which Rules and Regulations may include such reasonable charges there as the Association may determine; provided, that a copy of such Rules and Regulations and all amendments thereto shall be mailed to the Owner of each Lot and shall be reasonably available at the principal office of the Association for examination by each Owner and Tenant.

5.08. Entry. The Association or its representatives shall have the right, and are hereby granted an easement at reasonable times and upon reasonable notice to the Owner, his agent, or tenant, to enter upon any Lot and any Building or Dwelling Unit thereon to the extent such entry is necessary to carry out exterior maintenance or upkeep of the Common Areas or for any other purpose reasonably related to the performance by the Association of its responsibilities and duties hereunder.

5.09 Entry for Public Necessity. Each Owner hereby grants access for fire protection and public necessity through the rear portion of each lot. If the lot is fenced, the fence will contain gates that are not locked and allow for fire access.

5.10. Taxes. The Association shall pay all real estate taxes, personal property taxes, general and specific assessments, or other charges which may be assessed or levied against the Common Areas.

5.11. Assessments. The Association shall fix, determine, levy, and collect Assessments, as provided for in Article VI hereof.

5.12. Conveyance or Dedication. The Association may, from time to time, transfer, convey, or dedicate all or any part of the Common Areas, or easements thereon, to any agency, authority, or Utility, provided that no such transfer, conveyance, or dedication shall be made unless the Owners of at least two-thirds ($\frac{2}{3}$) of all Lots

assent and an instrument signed by the Owners of at least two-thirds ($\frac{2}{3}$) of all Lots has been filed for record indicating their assent to such transfer, conveyance, or dedication.

5.13. Miscellaneous. The Association shall do and perform any and all other acts and things and shall have such other rights and powers as may be provided for herein or as may be reasonably necessary to carry out the purport and intent of this Declaration.

ARTICLE VI.

COVENANT FOR ASSESSMENTS.

6.01. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot or any part thereof by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or other conveyance, hereby covenants and agrees, for himself, his heirs, executors, personal representatives, successors and assigns, to pay to the Association, the following:

a. Annual assessments or charges (herein called "Annual Assessments"), payable monthly or on such other periodic basis as may be designated from time to time by the Board of Directors of the Association.

b. Assessments for capital improvements (herein called "Capital Assessments"), such assessments to be fixed, established, and collected as hereinafter provided.

c. Special assessments (herein called "Special Assessments") as may be assessed upon particular Lots pursuant to the provisions of Sections 3.04, 5.06, 10.03, and 10.05 hereof; it being understood and agreed that all Annual, Capital and Special Assessments (all herein called "Assessments") as may be made upon any Lot in accordance with the provisions hereof, together with interest, costs, and reasonable attorney's fees shall be: (i) a charge upon and shall be a continuing lien upon the Lot against which each such Assessment is made, and (ii) the personal obligation of the person who was the Owner of the Lot at the time when such Assessment fell due in whole or in part, but no successor in interest to the title to any Lot shall be personally liable for any Assessments falling due prior to his acquisition of title, unless he shall expressly assume such obligation in writing.

6.02. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively:

a. To promote the use, maintenance, and enjoyment of the Project.

b. To promote the recreation, health, safety, and welfare of the Owners of Lots and residents of Dwelling Units thereon.

c. To enable the Association to carry out its duties and obligations as set forth herein.

6.03. Annual Assessment. The Annual Assessment shall be determined in accordance with the provisions of this Section 6.03, as follows:

a. The Board of Directors shall, within the limitations hereinafter set forth, determine the aggregate Annual Assessments to be assessed for any year upon all Lots, and shall divide the same by the aggregate number of Dwelling Units upon all Lots; and the result shall be the "Annual Dwelling Unit Assessment."

b. The Annual Assessment for any Lot shall be the Annual Dwelling Unit Assessment multiplied by the number of Dwelling Units contained within such Lot.

c. The Board of Directors may fix the Annual Dwelling Unit Assessment for any year at such amount necessary for such year, as such Board of Directors may determine from time to time after consideration of current maintenance costs and present and future needs and obligations of the Association.

6.04. Assessments for Capital Improvements. In addition to Annual Assessments authorized by Section 6.03 hereof, the Association may levy, in any year, a Capital Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Areas, including fixtures and personal property relating thereto, provided, that:

a. Any Capital Assessment shall be assented to by not less than two-thirds ($\frac{2}{3}$) of the votes cast at a meeting duly called and held for such purpose pursuant to the provisions of Section 4.05 hereof.

b. The amount of the aggregate of any Capital Assessment which shall be charged to, borne by and assessed against any Lot and the Owner thereof shall be that proportion of such aggregate Capital Assessment as the number of Dwelling Units contained within such Lot bears to the aggregate of all Dwelling Units upon all Lots.

6.05. Date of Commencement of Annual Assessments; Due Dates. The Annual Assessments provided for herein shall commence as follows:

a. The first Annual Assessments shall be made for the balance of the calendar year in which the Declaration is recorded and shall become due and payable in equal monthly installments to be paid each month in advance on or before the first day of the month, unless the Board of Directors shall designate another form of periodic payment.

b. The amount of the Annual Assessment which may be levied for the balance remaining in the first year of Assessment shall be an amount which bears the same relationship to the Annual Assessment provided for in Section 6.03 hereof as the remaining number of months in such first year bears to twelve (12).

c. The Annual Assessment for any year after the first year shall become due and payable in equal monthly installments to be paid each month in advance on or before the first day of the month commencing on the first day of January of such year unless the Board of Directors designates another form of periodic payments.

d. The due date or dates of any Capital Assessment authorized pursuant to Section 6.04 hereof, shall be fixed in the resolution authorizing such Capital Assessment.

6.06. Duties of the Board of Directors. The duties of the Board of Directors in

connection with the determination of Assessments shall be as follows:

- a. Not less than thirty (30) days prior to the commencement of each Annual Assessment period, the Board of Directors shall fix the amount of the Annual Assessment for such period against each Lot and shall give written notice thereof of such Annual Assessment to the record Owner of such Lot.
- b. The Board of Directors shall fix and determine Special Assessments as may be applicable to particular Lots as provided for in Sections 3.04, 5.06, 10.05, and 10.06 hereof.
- c. The Board of Directors shall, at the time of fixing any Assessment, prepare a roster of the Lots and the Assessments applicable thereto and shall keep the same in the Office of the Association available to inspection by any person during reasonable business hours.
- d. Subject to the provisions of any Resolution authorizing a Capital Assessment, the Board of Directors may, at its discretion, designate a form of periodic payments for Assessments, Annual, Capital and Special.
- e. The Board of Directors may, at its discretion, designate and retain a collection agency for the Association to whom Assessment payments shall be made.
- f. The Association shall, within a reasonable time, upon request, furnish to any Owner, a certificate in writing signed by an officer of the Association or by a collecting agent designated by the Board of Directors, setting forth whether Assessments against such Owner's Lot have been paid; and such certificate shall be conclusive evidence of payment of any such Assessment therein stated to have been paid, provided, that the Association may require any Owner making a request for such certificate to pay a reasonable charge therefor.

6.07. Effect of Non-Payment of Assessment. If any Assessment or periodic portion thereof is not paid on the date when the same becomes due (as determined by the Board of Directors), then:

- a. Such Assessment shall be deemed delinquent and the amount thereof, together with interest as hereinafter provided, and the costs (including reasonable attorney's fees) of collection thereof shall thereupon become a continuing lien upon the Lot to which the same relates and shall bind such Lot in the hands of its then Owner, his heirs, personal representatives, executors, successors, and assigns.
- b. The personal obligation of the then Owner of the Lot to pay such Assessment shall remain his personal obligation.
- c. If an Assessment is not paid within thirty (30) days after the delinquent date, the Assessment shall bear interest from the date of delinquency at the maximum rate of interest from time to time permitted by the Nevada Revised Statutes, statutory interest.
- d. The Association or its designated collecting agent may bring any action at law against the Owner personally obligated to pay a delinquent Assessment or to foreclose the lien thereof against the Lot to which the same relates, and there shall be added

to the amount of any such delinquent Assessment, interest as herein provided, reasonable attorney's fees and the costs of the action.

e. No Owner may waive or otherwise escape liability for any Assessment provided for herein or stop the Association from enforcement of its lien or other rights hereunder by reason of non-use of the Common Areas or abandonment of the Lot subject to Assessment.

6.08. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon any Lot subject to Assessment, and the sale or transfer of any Lot pursuant to a decree of foreclosure of any such first mortgage or bona fide deed or conveyance in lieu thereof shall extinguish the lien of such Assessment with respect to Assessments which became due prior to such sale or transfer; provided, however, that:

a. Such subordination shall apply only to Assessments which have become due and payable prior to the sale of such Lot pursuant to a decree of foreclosure of any such mortgage or prior to delivery of a deed or conveyance of such Lot made by the mortgagor thereof in lieu of foreclosure.

b. No sale or transfer of a Lot pursuant to a decree of foreclosure to deed or conveyance in lieu thereof shall relieve the Owner thereof from personal liability for any delinquent Assessment, nor shall any such transfer relieve such Lot or the Owner thereof from liability for any Assessments thereafter becoming due or from the lien of any such subsequent Assessments.

c. No sale or transfer of any Lot, except pursuant to a decree of foreclosure or a bona fide deed or conveyance in lieu thereof, shall affect the lien of any Assessment.

ARTICLE VII. ARCHITECTURAL CONTROL.

7.01. Prohibition. No building, fence, wall, antenna, or other structure or appendage shall be commenced, erected, or maintained upon the Property, and no exterior alterations, additions, or changes shall be made upon any Building or structure erected upon the Property until the plans and specifications therefor (herein called the "Plans and Specifications") showing the nature, kind, shape, height, materials, location, and the approximate cost of the same shall have been submitted to and shall have been approved by the Board of Directors as provided for in Section 7.03 hereof.

7.02. Architectural Committee. The Board of Directors shall act as the architectural committee (herein called "Architectural Committee") provided, that if the Board of Directors shall so determine, the Architectural Committee shall be a committee composed of a representative or representatives (who need not be Directors) so designated by the Board of Directors.

7.03. Approval or Disapproval. The Architectural Committee shall review and approve or disapprove in writing, all Plans and Specifications submitted as provided

in Section 7.01 as to conformity of the work proposed therein to the Project, the topography and the structural and aesthetic design of surrounding Buildings; provided, that if the Architectural Committee shall fail to approve or disapprove any Plans and Specifications submitted to it pursuant to this Article within thirty (30) days after such submission, approval will be deemed to have been given, and this Article will be deemed to be fully complied with.

ARTICLE VIII. PARTY WALLS.

8.01. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Buildings upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.02. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

8.03. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

8.04. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

8.05. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE IX. CONCERNING DECLARANT.

9.01. Conveyance of Common Areas. Prior to the first conveyance by the Declarant of any Lot, Declarant shall convey to the Association, in fee, all of the Common Areas, free and clear of all mortgages and encumbrances excepting easements for utilities as hereinafter provided for, current real estate taxes not in default, the provisions of this Declaration and such other matters affecting title as may presently exist upon the Common Areas other than liens or mortgages. Current real estate taxes shall be prorated between Declarant and the Association as of the date of conveyance.

9.02. Utilities. The Common Areas and Declarant's conveyance thereof to the Association shall be subject to easements granted or to be granted for Utilities.

9.03. Declarant's Use. Declarant, its agents, employees, and designees shall have the right of use of the Common Areas during the construction and sales period, whether before or after conveyance thereof to the Association, as may be reasonably necessary to erect Buildings upon the Lots and to effect the sale or rental of the same; provided such use does not interfere unreasonably with the Owners' use of the recreational facilities, rights of ingress and egress, and parking rights.

ARTICLE X.

JOINT CONNECTION OF UTILITY LINES.

10.01. General. The rights and duties of Owners of Lots and the Association with respect to Utilities shall be governed by the provisions of this Article.

10.02. Easement for Repair. Wherever lines or connections (herein generally called "Connections") of Utilities are installed within the Property, and the Connections or any portion thereof lie in or upon Lots (including any Dwelling Units thereon) other than the Dwelling Units served by such Connections, the Association and the Owners of any such Lots served by such Connections shall have the right, and are hereby granted easements to the full extent necessary therefor, to enter upon Lots and Dwelling Units (or to have the Utility Companies, other than the City of *[name of city]*, enter thereon) in or upon which are located Connections, or any portion thereof, to repair, replace or generally maintain such Connections as and when the same may be necessary.

10.03. Action by Association and Assessments. In the event the Association shall deem the repair, replacement, or maintenance of any Utility Connection to be necessary for any reason whatsoever, including, but not limited to, acts of Owners, their agents, guests, or tenants, ordinary wear and tear, or deterioration from lapse of time, the Association shall repair or replace such Connection or have the same repaired or replaced and the Association may assess the costs thereof as Special Assessments as provided for in Article VI hereof against the Owners of all Lots which are served by such Connections and against such Lots in the proportion that the number of Dwelling Units upon each such Lot bears to the aggregate of Dwelling Units of all such Lots; provided, however, that in the event any portion of any Utility Connection is obstructed, damaged, or destroyed through the act of the Owner of a Lot or any of such Owners' agents, guests, or tenants, whether or not such act is negligent (or otherwise culpable) so as to require the repair or maintenance thereof, the costs of such repair and replacement may be assessed by the Association against such Owner and his Lot as a Special Assessment as provided for in Article VI hereof. The Association shall not be liable to any Owner, nor to the tenants, agents, or guests of any Owner, for direct or consequential damages to persons or property on account of the failure of the Association to maintain, repair, or replace any Utility Connections, except to the extent of the cost of such repair, replacement, or

maintenance incurred by any Owner, its agents, or tenants.

10.04. Joint Use. Whenever Utility Connections serve more than one (1) Lot, the Owner of each Lot and his agents, guests, or tenants served by such Connections shall be entitled to the full use and enjoyment of such portions of such Connections as shall service his Lot.

10.05. Sewer and Water Lines. The Association shall, at all times, be responsible for the maintenance, repair, and replacement of all private sewer lines lying between the outer wall of each Building and the connection of such sewer line with the City of Elko's main sewer located in a dedicated public right-of-way. The Association shall, at all times, be responsible for the maintenance, repair, and replacement of all private water lines lying between the outer wall of each Building and the connection with the City-owned water meter vault. All charges for water shall be billed by the City of Elko to the Association and shall be paid by the Association. Such charges shall be equitably assessed by the Association among the Lots and the Owners thereof as Special Assessments as provided for in Article VI hereof.

ARTICLE XI. GENERAL PROVISIONS.

11.01. Enforcement. The Covenants herein contained shall run with and be binding upon all of the Property and shall be binding upon the Association and upon all persons owning, leasing, subleasing, or occupying any such land, their heirs, executors, administrators, personal representatives, successors and assigns; and the Covenants may be enforced by the Association (which shall have the right to expend Association monies in pursuance thereof), and may also be enforced by the Owners of any Lot or Lots; provided, that if the Covenants are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may, in the discretion of the Board of Directors, be reimbursed by the Association for all or any part of the cost incurred thereby.

11.02. Severability. Invalidation of any of the Covenants or terms, provisions, conditions, or restrictions herein contained or any portion thereof by judgment or court order shall in no way affect the validity of any of the other such Covenants, terms, provisions, conditions, or restrictions, or portions thereof; and the same shall remain in full force and effect.

11.03. Pronouns. The word "he" wherever used in this instrument shall be used as synonymous with the words "she," "it," and "they" and the word "his" synonymous with the words "her," "its," and "their."

11.04. Captions. All article and section titles or captions contained herein are for convenience only and shall not be deemed a part of the context hereof.

11.05. Amendment. This Declaration may be amended by the affirmative vote of not less than sixty-six and two-thirds (66⅔) of the aggregate number of votes entitled pursuant to Section 4.03 hereof to be cast at a meeting duly called and held for such

purpose in accordance with the provisions of Section 4.05 hereof, provided that any such amendment shall be of no effect unless there shall be recorded in the Office of the County Recorder, County of Elko, State of Nevada, a certificate executed by the president or any vice-president of the Association and attested to by the secretary or an assistant secretary of the Association, setting forth such amendment at length and certifying that the amendment was adopted and approved in accordance with the requirements of this Declaration; provided, however, that no amendment here to shall impose upon the City of Elko, any obligations with respect to sewer or water Connections which were not theretofore assumed by the City of Elko.

11.06. Duration. The covenants, provisions, and restrictions hereof, as the same may be amended from time to time, shall remain in full force and effect for a period of twenty (20) years from the date hereof, and thereafter, they shall have been deemed to have been renewed for successive terms of ten (10) years each, provided, that at any time after twenty (20) years after the date hereof, the provisions, conditions and restrictions hereof may be terminated by the affirmative vote of not less than sixty-six and two-thirds percent (66⅔%) number of votes entitled pursuant to Section 4.03 hereof to be cast at a meeting called for such purpose in accordance with the provisions of Section 4.05 hereof; provided, however, that the obligations of the Association and the Owners with respect to water and sewer Connections may not be terminated without the prior written consent of the City of Elko.

11.07 Indemnification. Each lot owner agrees to indemnify and hold harmless Declarant, the Association and their agents and assigns from any and all acts that are caused through the negligence of any third party and not at the fault of thor due to the acts of the Declarant or the Association.

IN WITNESS WHEREOF, LEGION CONSTRUCTION AND DEVELOPMENT, LLC, has caused this Declaration of Covenants, Conditions, and Restrictions to be executed on its behalf and its corporate seal to be affixed hereto, all as of the day and year first above written.

Dated: _____

LEGION CONSTRUCTION AND DEVELOPMENT, LLC

By:

John Smales
Manager

State of Nevada
County of Elko

This instrument was acknowledged before me on the ____ day of _____, 2020 by John Smales, Manager of LEGION CONSTRUCTION AND DEVELOPMENT, LLC.

NOTARY PUBLIC

EXHIBIT A

APNS TBD

Lots 1 through 16 of Jarbidge Estates Subdivision Map Recorded on the __ day of _____, 2020 in the office of the Elko County Recorder, Elko County, Nevada, as File No. _____.

Shanks Enterprises Inc.

July 21, 2020

City of Elko
1751 College Avenue
Elko, Nevada 89801

RE: Jarbidge Estates Subdivision – N. 5th Street
Preliminary Hydrology Calculations

To whom this may concern,

To support the proposed development, we are providing this summary of existing and proposed drainage conditions for the proposed development located on North 5th street in Elko, Nevada. The site consists of a 2.16-acre parcel which generally slopes from the North 5th street in a northeasterly direction. The proposed development will create approximately 1.0-acres of new impervious coverage including 18 townhomes with driveways and pavement with sidewalks. It is anticipated that surface runoff flows from the developed areas will be conveyed via valley gutter to a 36" storage culvert with a 6" outlet located near the northeast corner of the parcel.

We have performed calculations utilizing TR-55 methods to determine existing and proposed peak flow and volumes for the 10-year and 100-year storm event for proposed subdivision, by utilizing published precipitation and soils data. A summary is as follows:

Basin	Area (ac.)	CN	10-yr Peak Flow (cfs)	10-yr Volume (cf)	Location	Notes
P1	2.12	88	2.68	5649	Not on property	Pre Pass-through
P2	2.16	82	1.98	3766	On Property	Total Pre-Property Drainage
D1	1.87	88	2.36	4982	Not on Property	Post Pass-Through to North Ditch
D2	0.39	84	0.40	817	On Property	Contributes to North Ditch
D3	0.49	78	0.31	569	On Property	Contributes to South Ditch
D4	1.35	93	2.71	4914	On Property	Contributes to valley gutters
D5	0.20	98	0.48	1100	Not on Property	Pass-through to North 5th Street

The proposed storm drain infrastructure shall be designed to capture, release no more than the pre-development peak flow, and store excess stormwater for the 10-year storm event. It shall also be designed to capture and release the 100-year storm utilizing overflow outlets.

Stormwater from Basin D1, and D2 will be conveyed through the proposed North Ditch with no outlet structure. Stormwater from Basin D3 will be conveyed through the proposed South Ditch with no outlet structure. Stormwater from D4 will be captured in valley gutters and conveyed to 76' of 36" storage culvert and a 6" outlet structure. The outlet structure peak flow will not exceed 1.27 cfs (1.98 cfs – 0.40 cfs – 0.31 cfs = 1.27). The outlet structure, North Ditch and South Ditch will combine to a combined ditch that travels from the northeast corner of the proposed subdivision to Dakato Drive.

This design would accomplish reducing the peak runoff rate and volume from the site to downstream areas.

Below is a list of attachments used to develop the table above.

Attachment 1 – P1 – D5 10 Year Storm Hydrograph

Attachment 2 – North Ditch Size Calculations

Attachment 3 – South Ditch Size Calculations

Attachment 4 – Combined Ditch Size Calculations

Please let me know if you have any questions or comments.

Sincerely,

Shanks Enterprises Inc.

Kenneth Frary-Skalla, P.E.
kennyskallaeng@gmail.com

Hydrograph Report

1

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

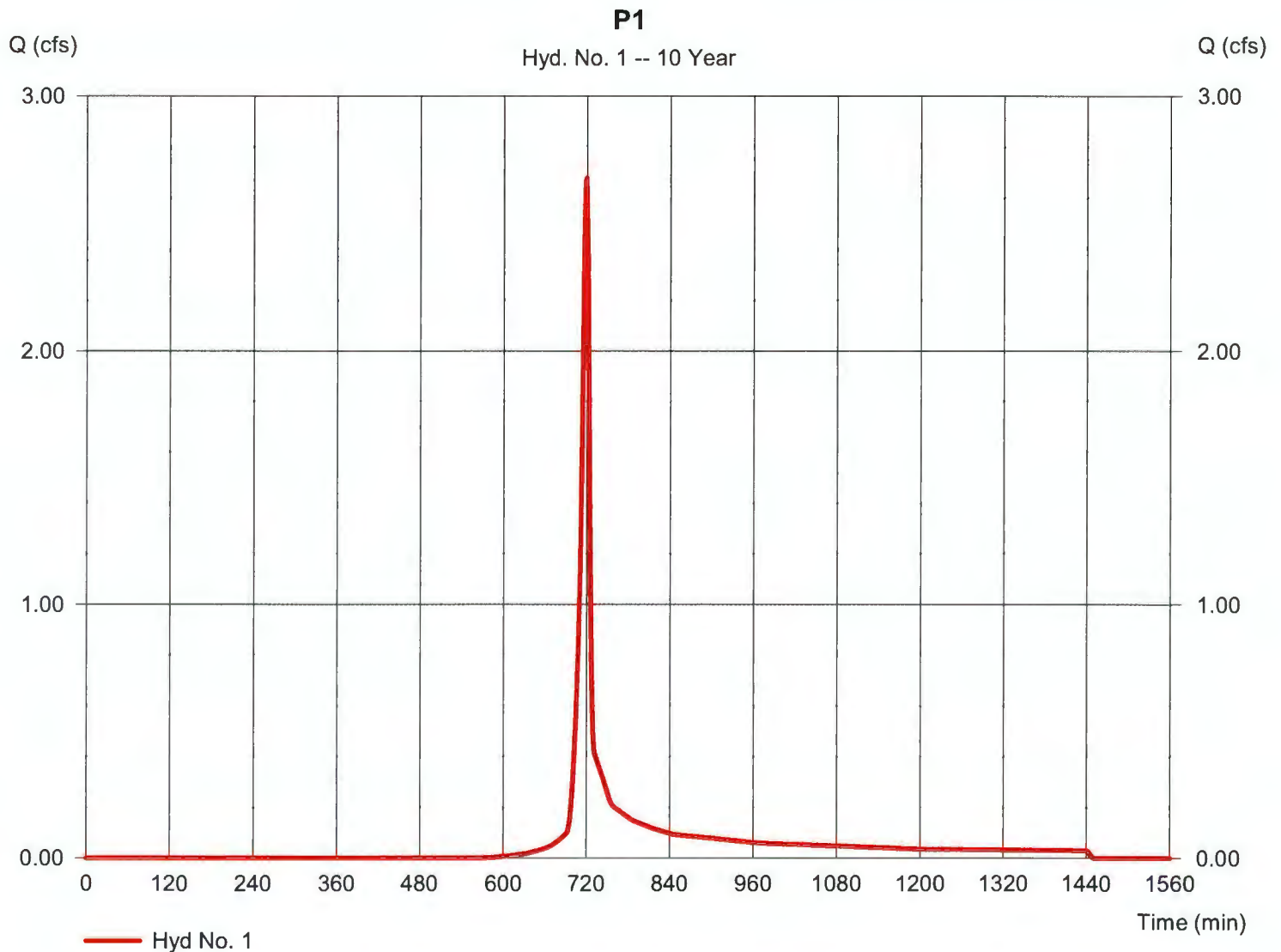
Tuesday, 07 / 21 / 2020

Hyd. No. 1

P1

Hydrograph type	= SCS Runoff	Peak discharge	= 2.678 cfs
Storm frequency	= 10 yrs	Time to peak	= 719 min
Time interval	= 1 min	Hyd. volume	= 5,649 cuft
Drainage area	= 2.120 ac	Curve number	= 88*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 7.70 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(1.038 \times 89) + (0.440 \times 98) + (0.645 \times 80)] / 2.120$



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

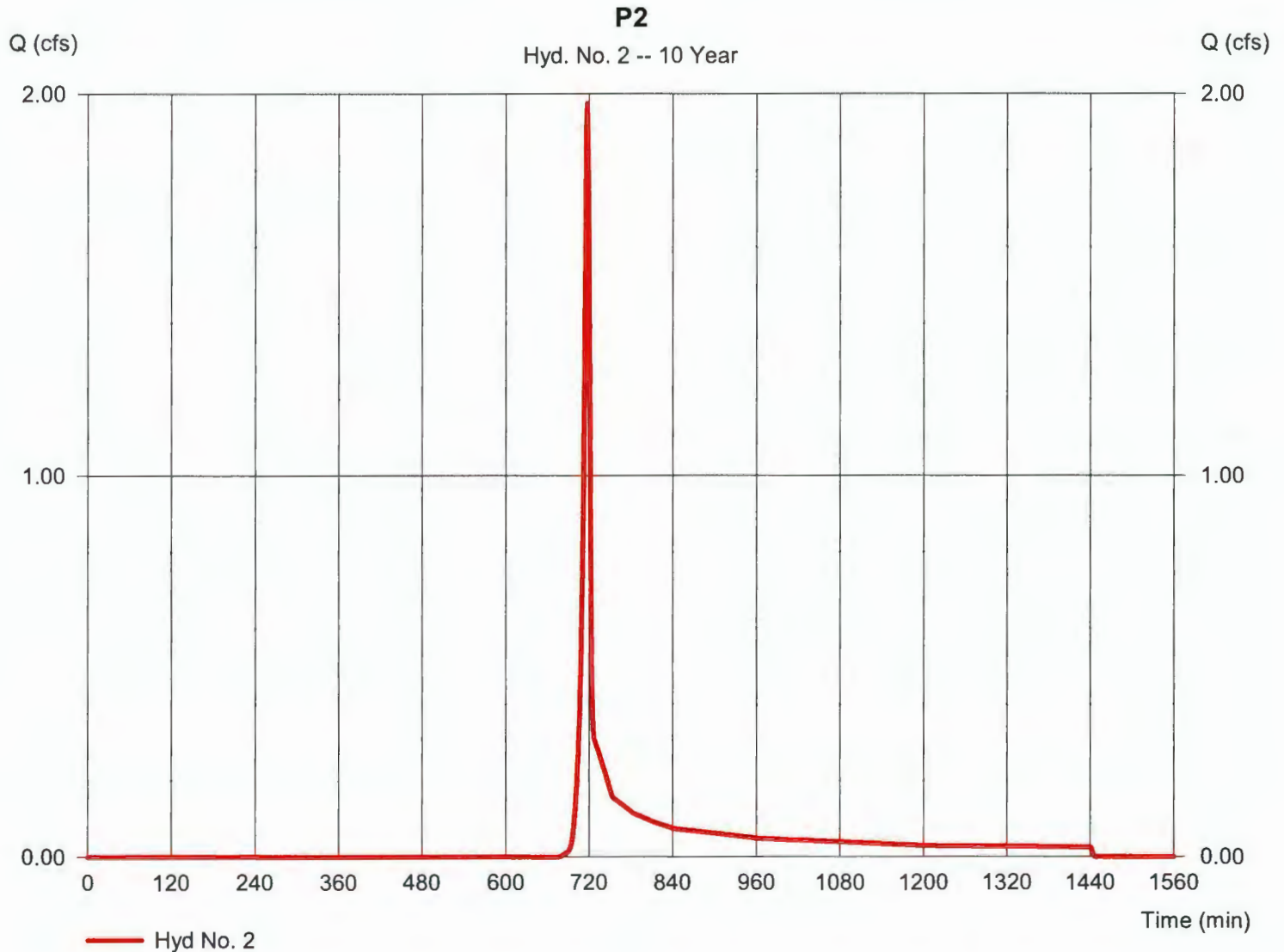
Tuesday, 07 / 21 / 2020

Hyd. No. 2

P2

Hydrograph type	= SCS Runoff	Peak discharge	= 1.975 cfs
Storm frequency	= 10 yrs	Time to peak	= 717 min
Time interval	= 1 min	Hyd. volume	= 3,766 cuft
Drainage area	= 2.170 ac	Curve number	= 82*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 4.30 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(1.648 \times 80) + (0.526 \times 89)] / 2.170$



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

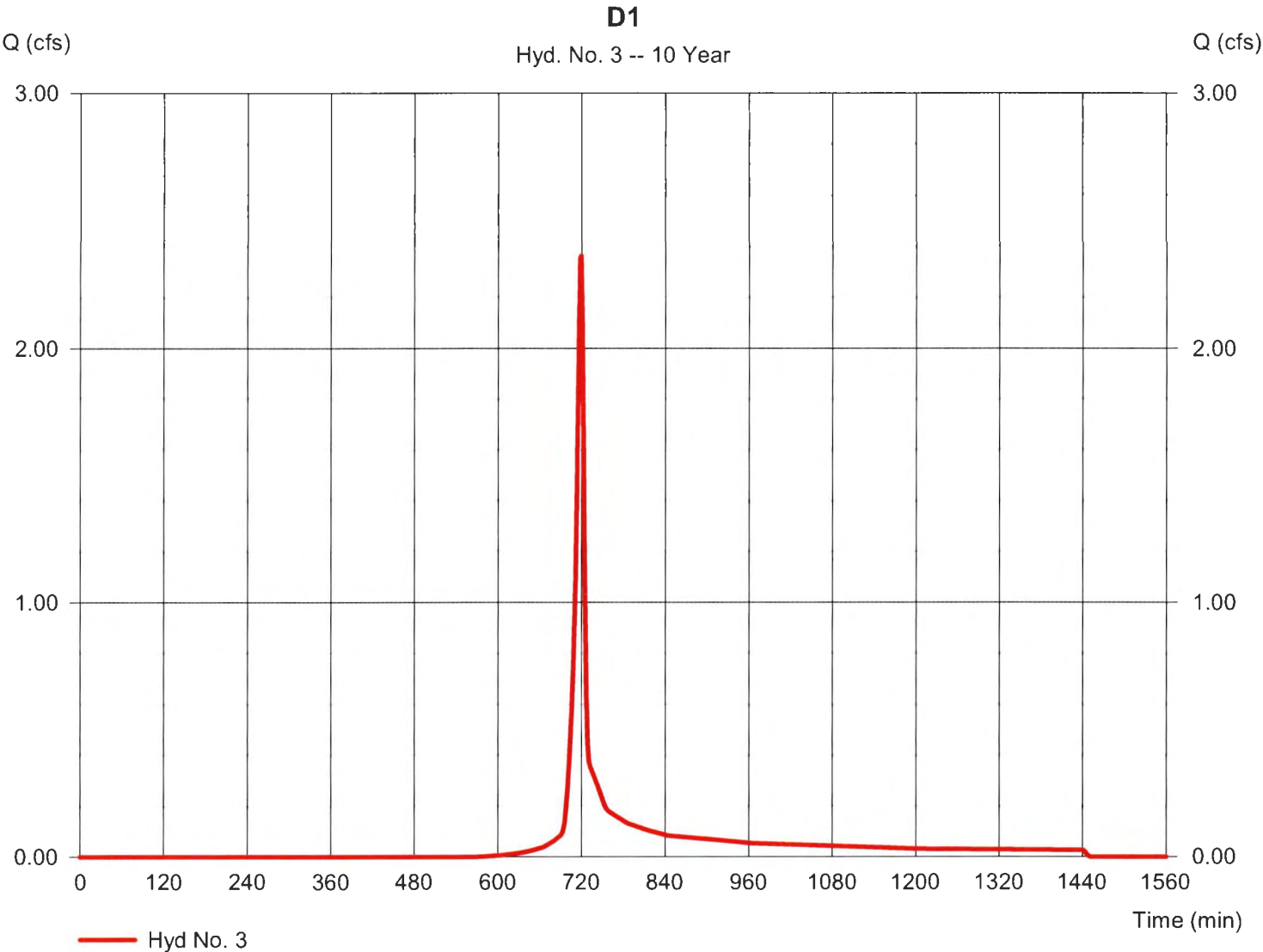
Tuesday, 07 / 21 / 2020

Hyd. No. 3

D1

Hydrograph type	=	SCS Runoff	Peak discharge	=	2.362 cfs
Storm frequency	=	10 yrs	Time to peak	=	719 min
Time interval	=	1 min	Hyd. volume	=	4,982 cuft
Drainage area	=	1.870 ac	Curve number	=	88*
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	TR55	Time of conc. (Tc)	=	8.20 min
Total precip.	=	1.73 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

* Composite (Area/CN) = [(1.020 x 89) + (0.280 x 98) + (0.570 x 80)] / 1.870



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

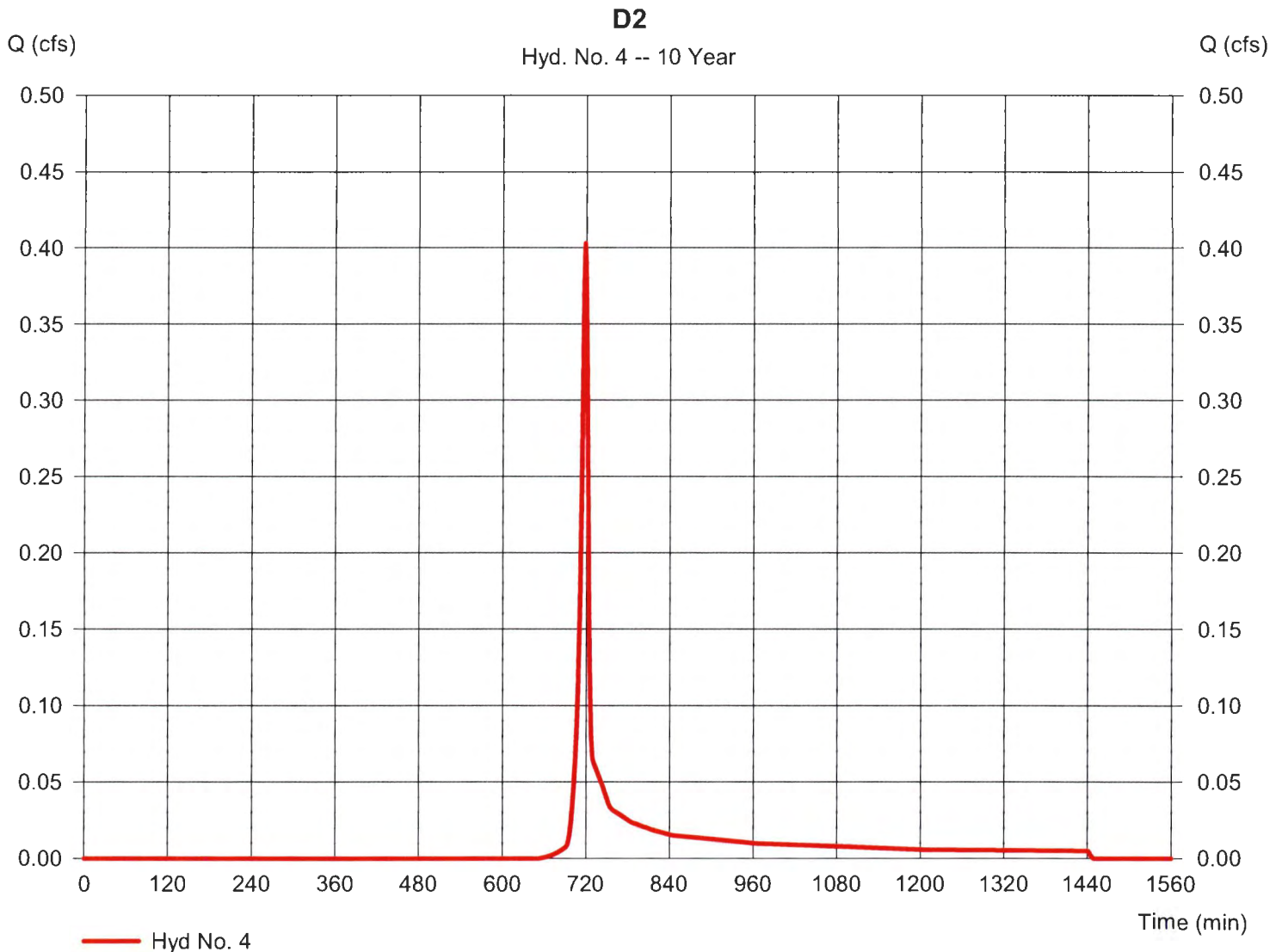
Tuesday, 07 / 21 / 2020

Hyd. No. 4

D2

Hydrograph type	= SCS Runoff	Peak discharge	= 0.403 cfs
Storm frequency	= 10 yrs	Time to peak	= 718 min
Time interval	= 1 min	Hyd. volume	= 817 cuft
Drainage area	= 0.390 ac	Curve number	= 84*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 6.40 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(0.246 \times 78) + (0.105 \times 98) + (0.040 \times 80)] / 0.390$



Hydrograph Report

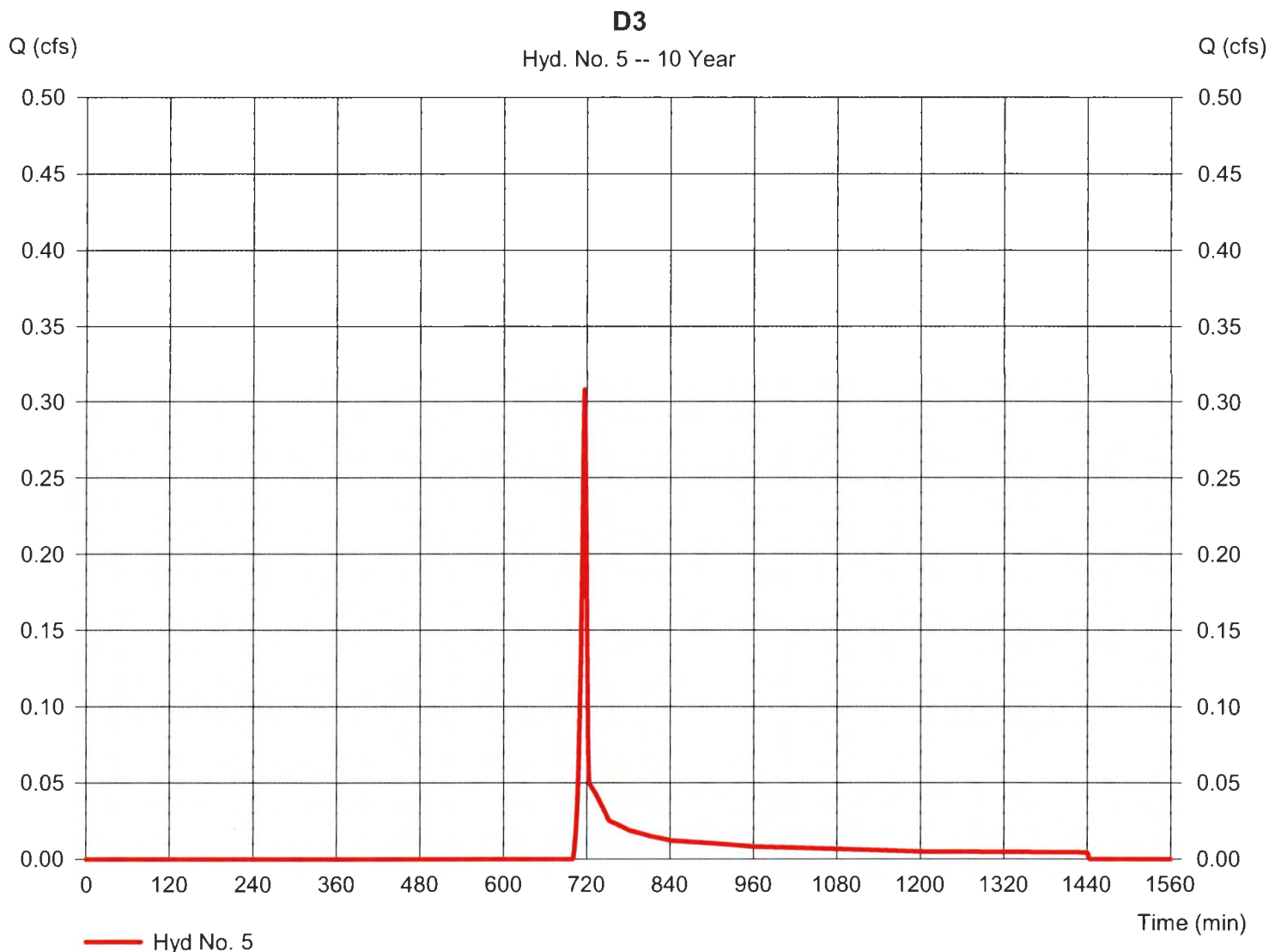
Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

Tuesday, 07 / 21 / 2020

Hyd. No. 5

D3

Hydrograph type	= SCS Runoff	Peak discharge	= 0.308 cfs
Storm frequency	= 10 yrs	Time to peak	= 716 min
Time interval	= 1 min	Hyd. volume	= 569 cuft
Drainage area	= 0.490 ac	Curve number	= 78*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 2.40 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(0.486 \times 78)] / 0.490$ 

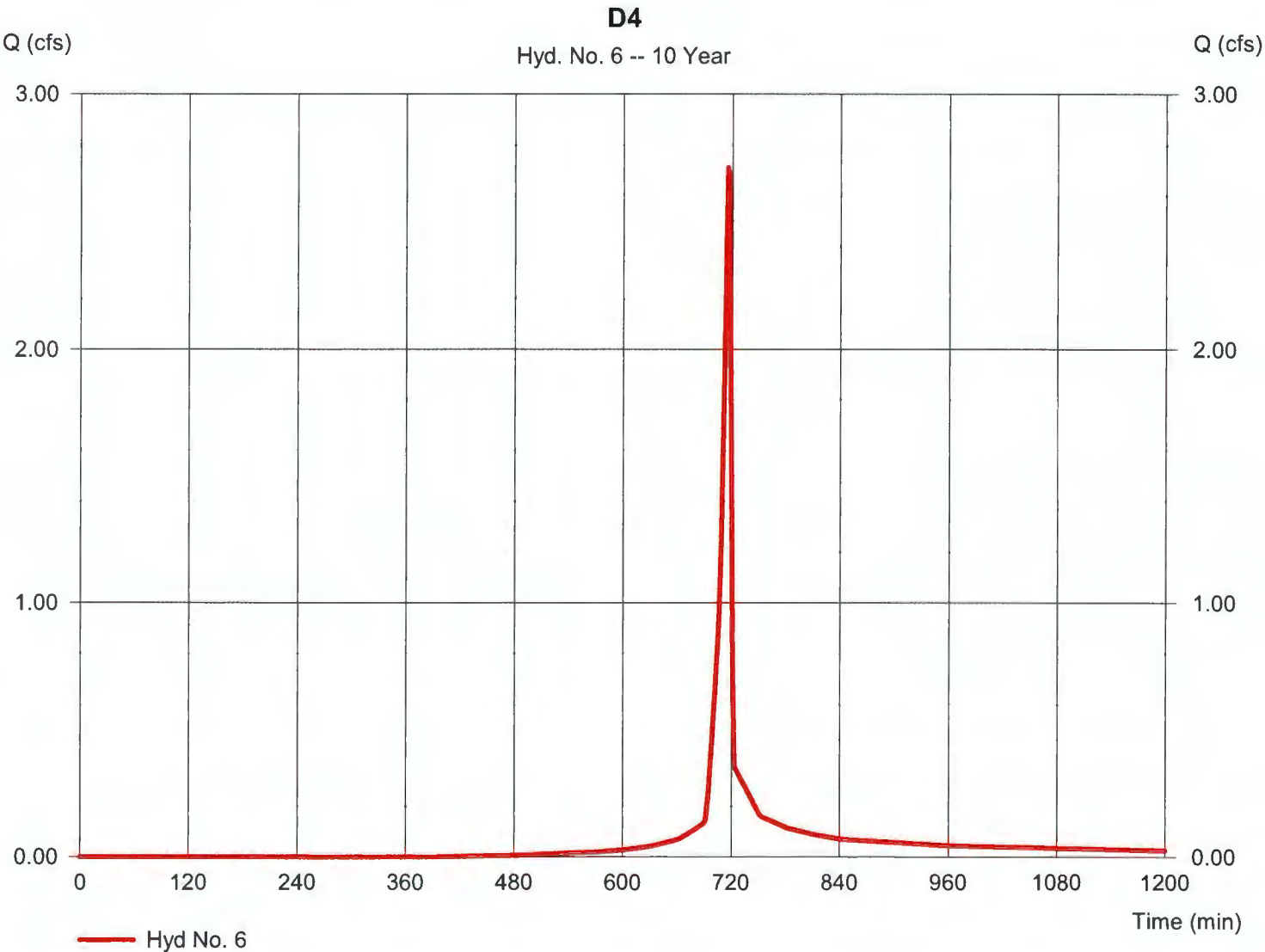
Hydrograph Report

Hyd. No. 6

D4

Hydrograph type	= SCS Runoff	Peak discharge	= 2.712 cfs
Storm frequency	= 10 yrs	Time to peak	= 715 min
Time interval	= 1 min	Hyd. volume	= 4,914 cuft
Drainage area	= 1.350 ac	Curve number	= 93*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 3.00 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = [(1.020 x 98) + (0.327 x 78)] / 1.350



Hydrograph Report

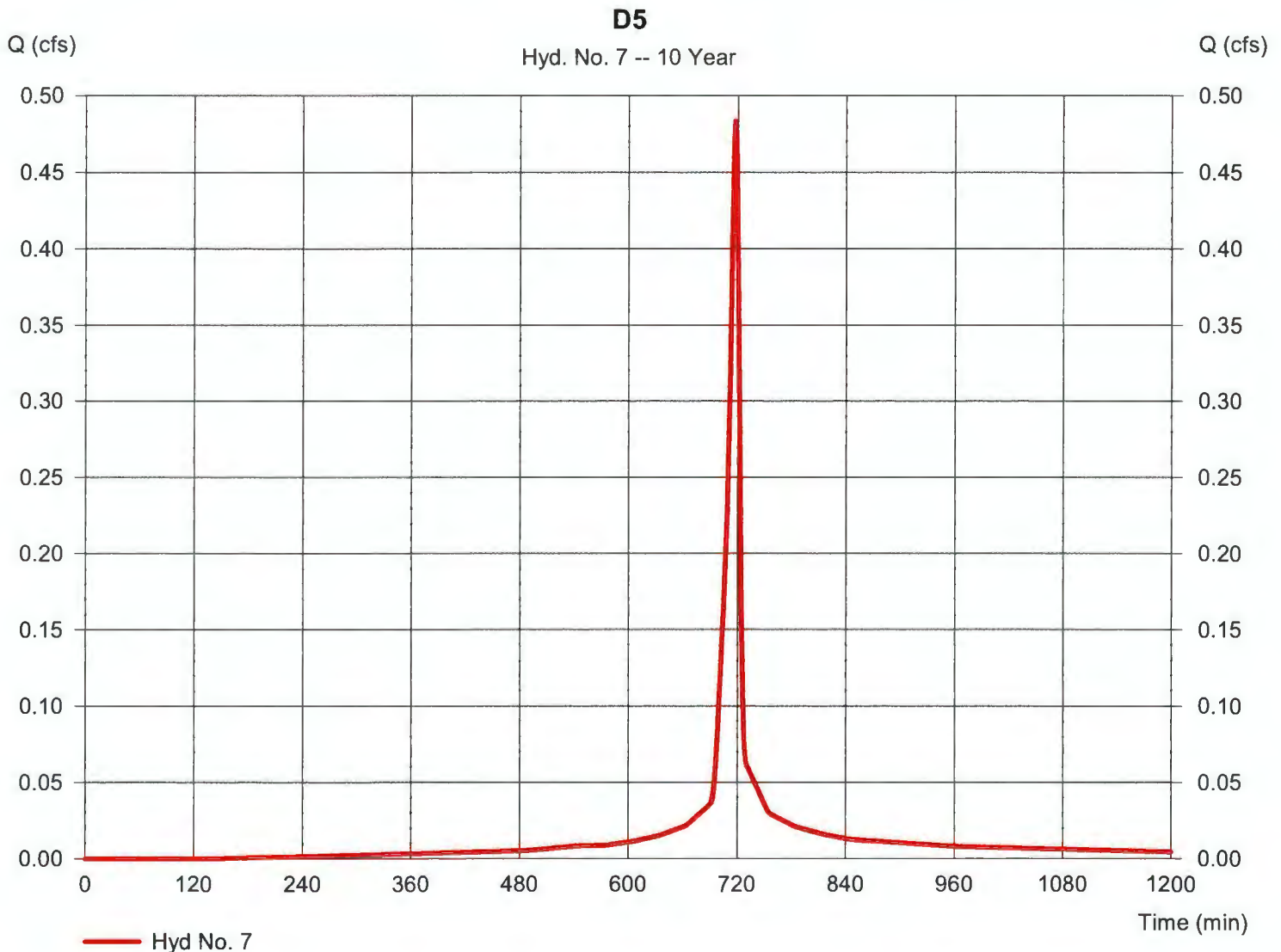
Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

Tuesday, 07 / 21 / 2020

Hyd. No. 7

D5

Hydrograph type	= SCS Runoff	Peak discharge	= 0.483 cfs
Storm frequency	= 10 yrs	Time to peak	= 717 min
Time interval	= 1 min	Hyd. volume	= 1,100 cuft
Drainage area	= 0.195 ac	Curve number	= 98
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 5.10 min
Total precip.	= 1.73 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

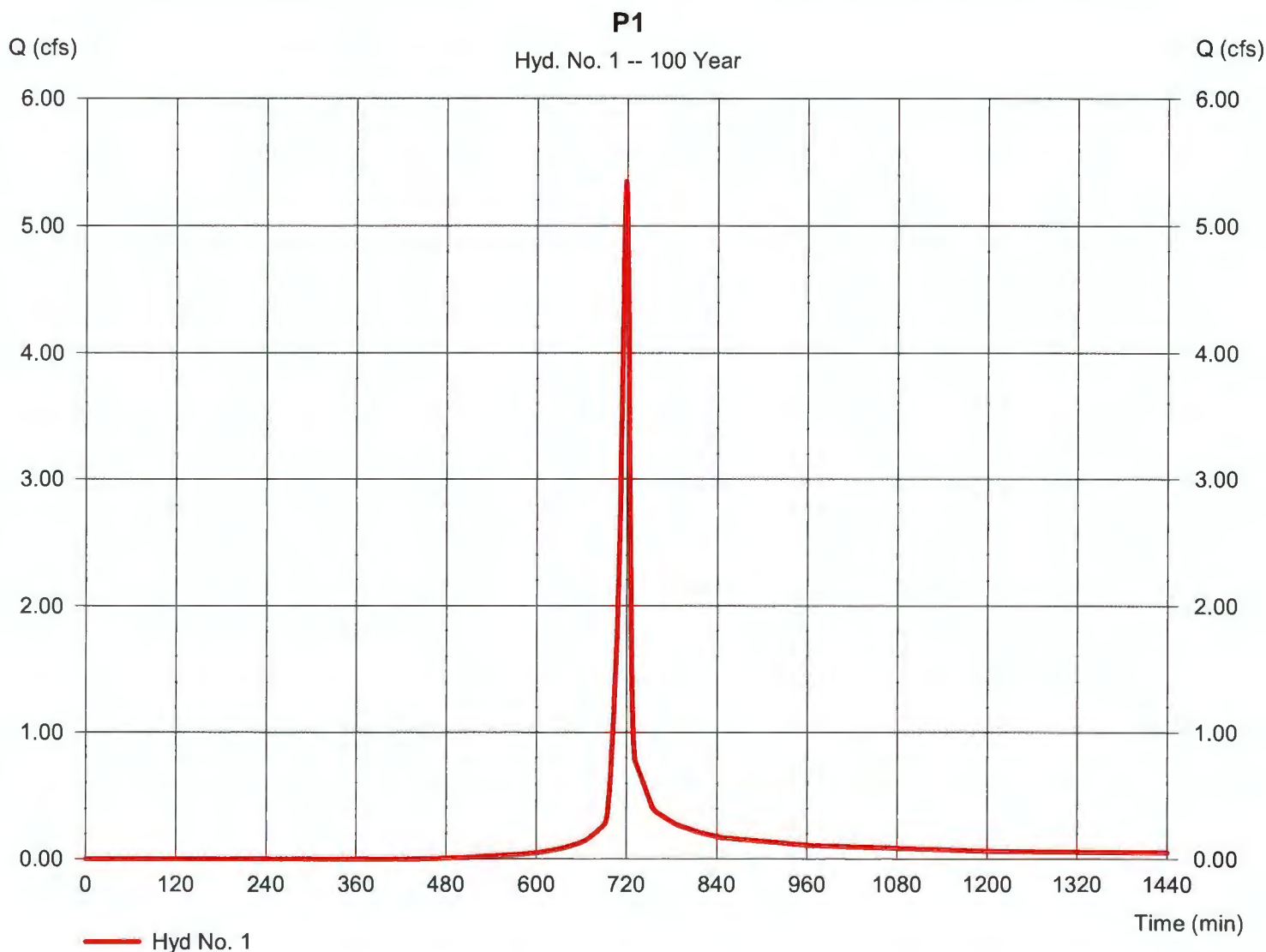
Tuesday, 07 / 21 / 2020

Hyd. No. 1

P1

Hydrograph type	= SCS Runoff	Peak discharge	= 5.349 cfs
Storm frequency	= 100 yrs	Time to peak	= 718 min
Time interval	= 1 min	Hyd. volume	= 11,400 cuft
Drainage area	= 2.120 ac	Curve number	= 88*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 7.70 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(1.038 \times 89) + (0.440 \times 98) + (0.645 \times 80)] / 2.120$



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

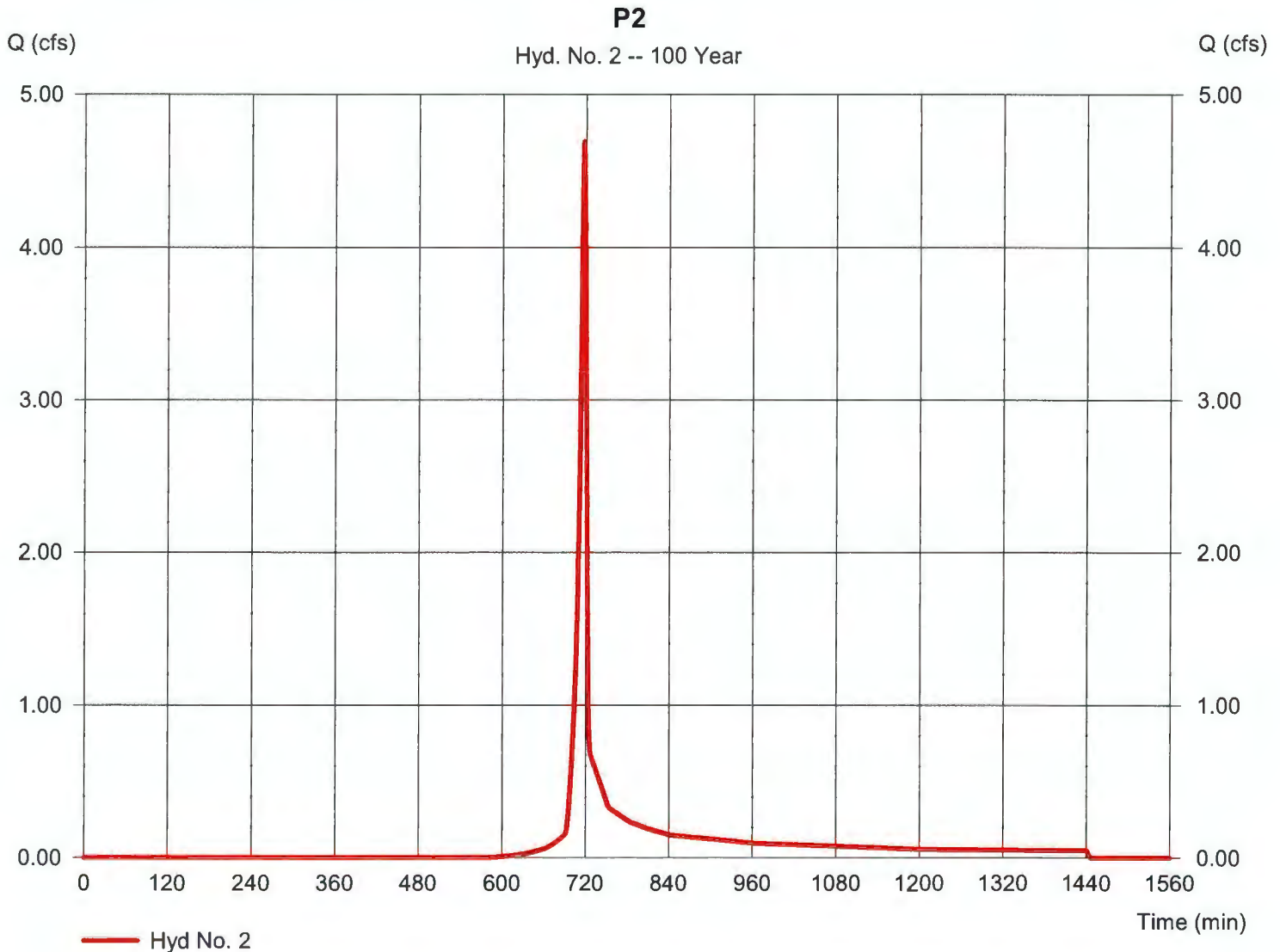
Tuesday, 07 / 21 / 2020

Hyd. No. 2

P2

Hydrograph type	= SCS Runoff	Peak discharge	= 4.692 cfs
Storm frequency	= 100 yrs	Time to peak	= 717 min
Time interval	= 1 min	Hyd. volume	= 8,799 cuft
Drainage area	= 2.170 ac	Curve number	= 82*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 4.30 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(1.648 \times 80) + (0.526 \times 89)] / 2.170$



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

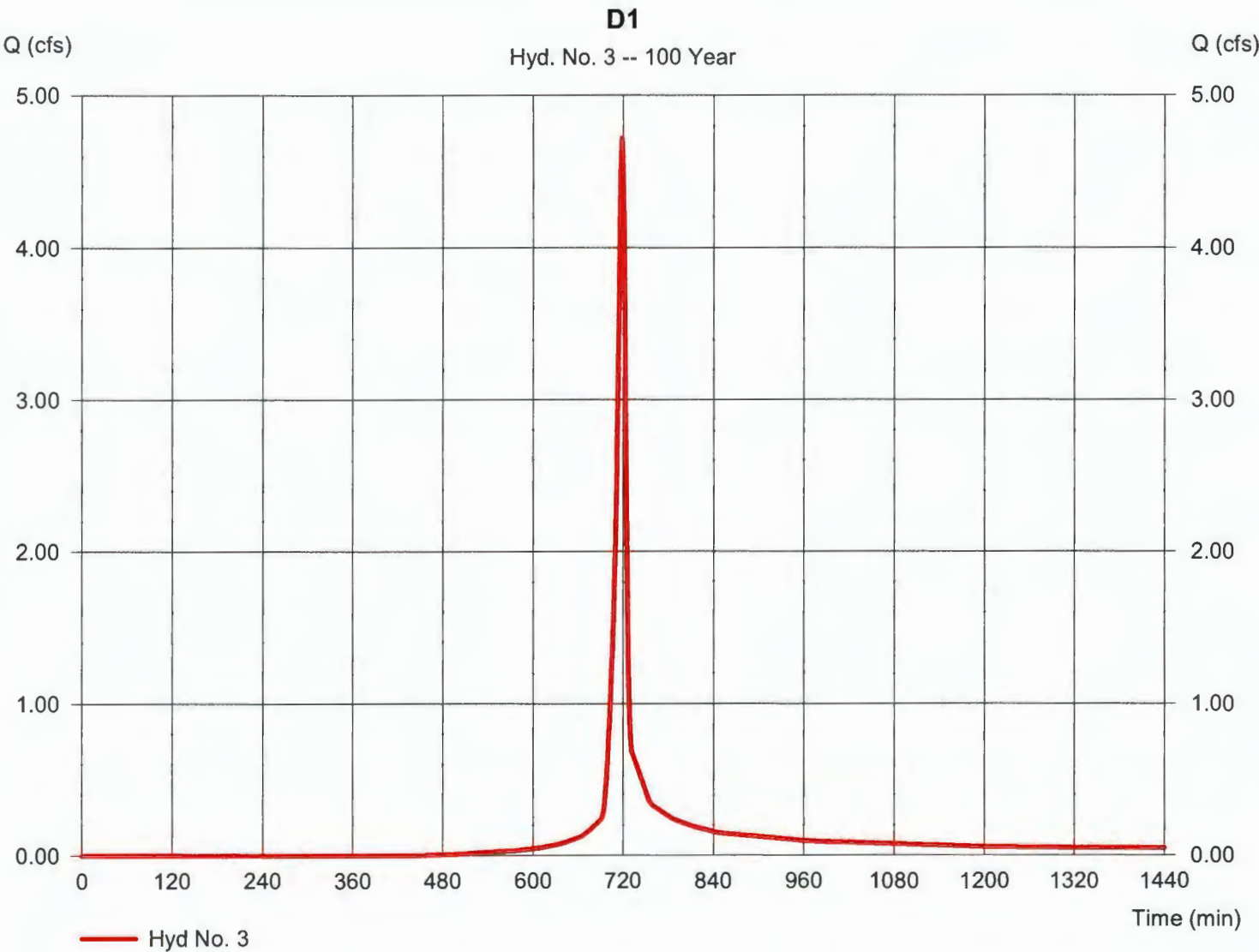
Tuesday, 07 / 21 / 2020

Hyd. No. 3

D1

Hydrograph type	= SCS Runoff	Peak discharge	= 4.719 cfs
Storm frequency	= 100 yrs	Time to peak	= 718 min
Time interval	= 1 min	Hyd. volume	= 10,056 cuft
Drainage area	= 1.870 ac	Curve number	= 88*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 8.20 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = [(1.020 x 89) + (0.280 x 98) + (0.570 x 80)] / 1.870



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

Tuesday, 07 / 21 / 2020

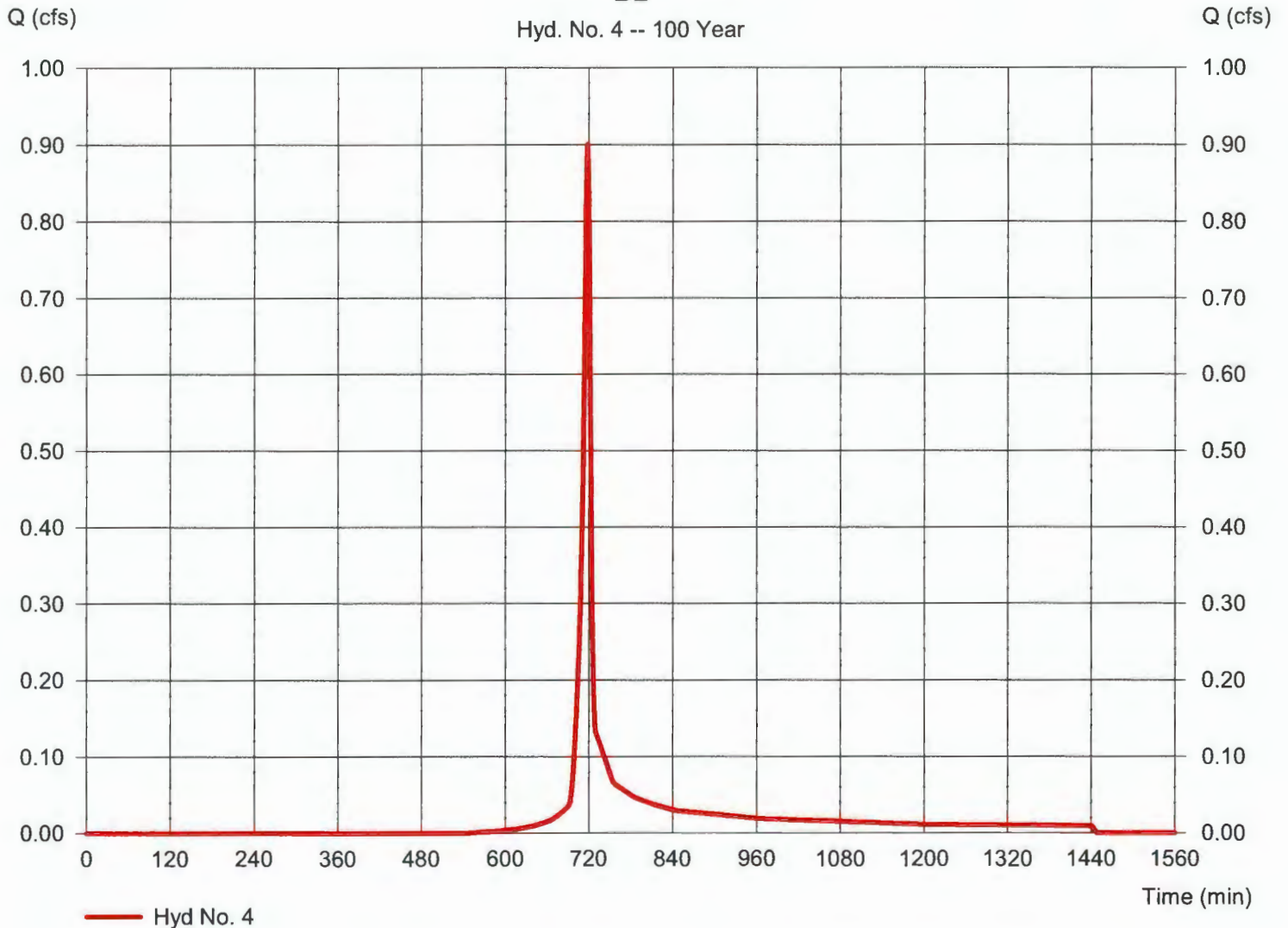
Hyd. No. 4

D2

Hydrograph type	= SCS Runoff	Peak discharge	= 0.900 cfs
Storm frequency	= 100 yrs	Time to peak	= 718 min
Time interval	= 1 min	Hyd. volume	= 1,812 cuft
Drainage area	= 0.390 ac	Curve number	= 84*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 6.40 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(0.246 \times 78) + (0.105 \times 98) + (0.040 \times 80)] / 0.390$

D2



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

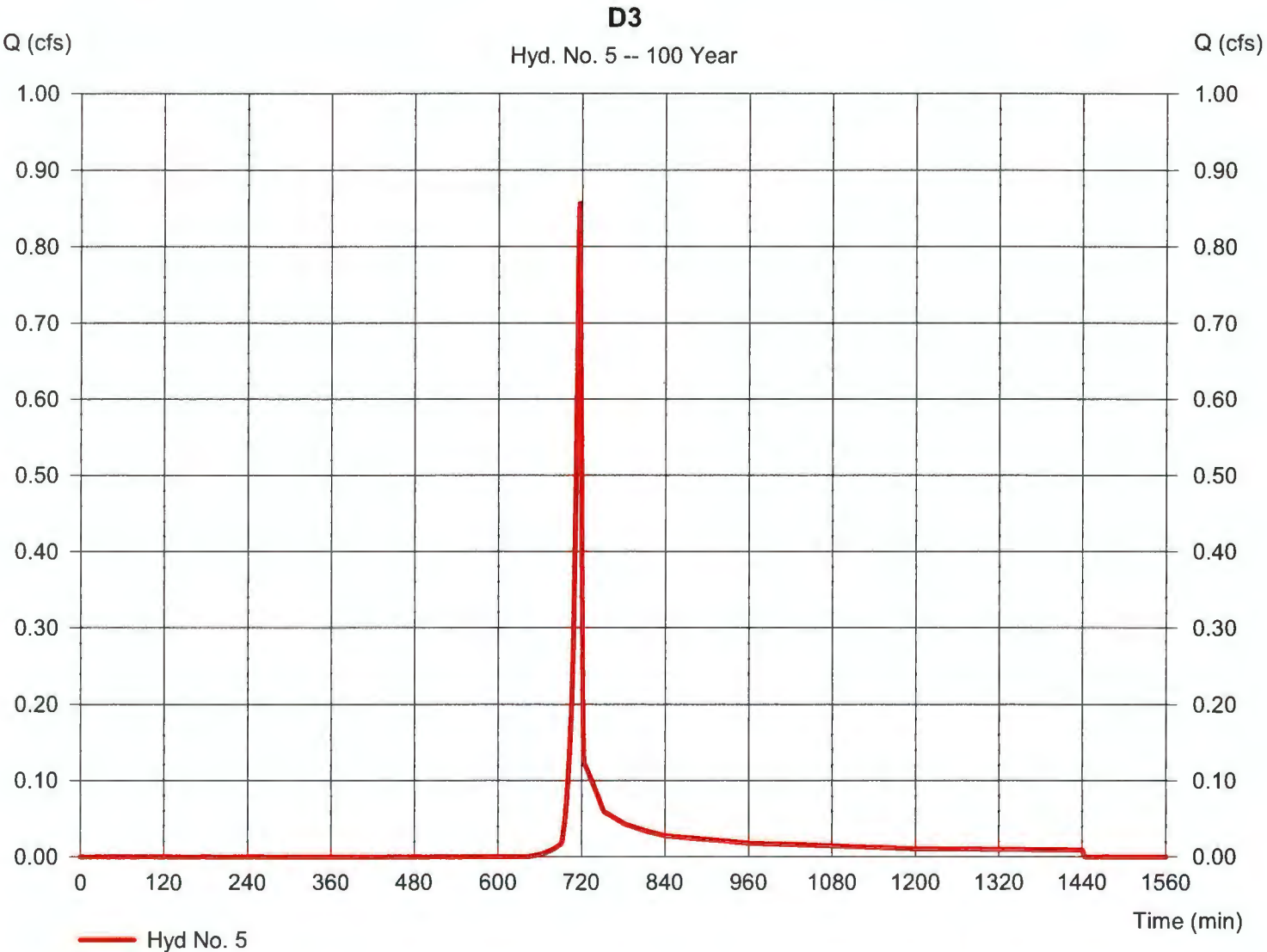
Tuesday, 07 / 21 / 2020

Hyd. No. 5

D3

Hydrograph type	=	SCS Runoff	Peak discharge	=	0.857 cfs
Storm frequency	=	100 yrs	Time to peak	=	716 min
Time interval	=	1 min	Hyd. volume	=	1,490 cuft
Drainage area	=	0.490 ac	Curve number	=	78*
Basin Slope	=	0.0 %	Hydraulic length	=	0 ft
Tc method	=	TR55	Time of conc. (Tc)	=	2.40 min
Total precip.	=	2.66 in	Distribution	=	Type II
Storm duration	=	24 hrs	Shape factor	=	484

* Composite (Area/CN) = [(0.486 x 78)] / 0.490



Hydrograph Report

Hydraflow Hydrographs Extension for Autodesk® Civil 3D® by Autodesk, Inc. v2021

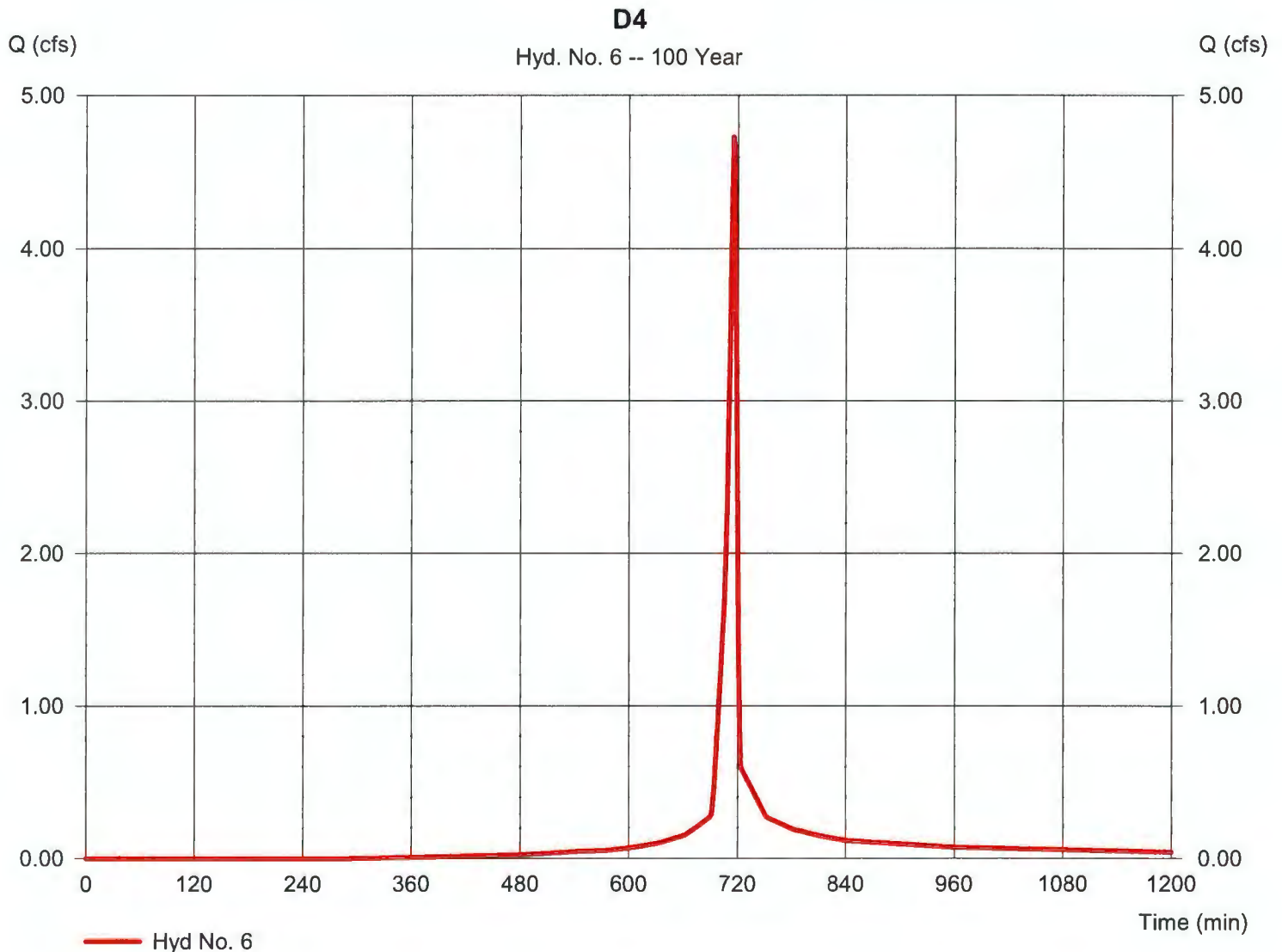
Tuesday, 07 / 21 / 2020

Hyd. No. 6

D4

Hydrograph type	= SCS Runoff	Peak discharge	= 4.730 cfs
Storm frequency	= 100 yrs	Time to peak	= 715 min
Time interval	= 1 min	Hyd. volume	= 8,869 cuft
Drainage area	= 1.350 ac	Curve number	= 93*
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 3.00 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484

* Composite (Area/CN) = $[(1.020 \times 98) + (0.327 \times 78)] / 1.350$

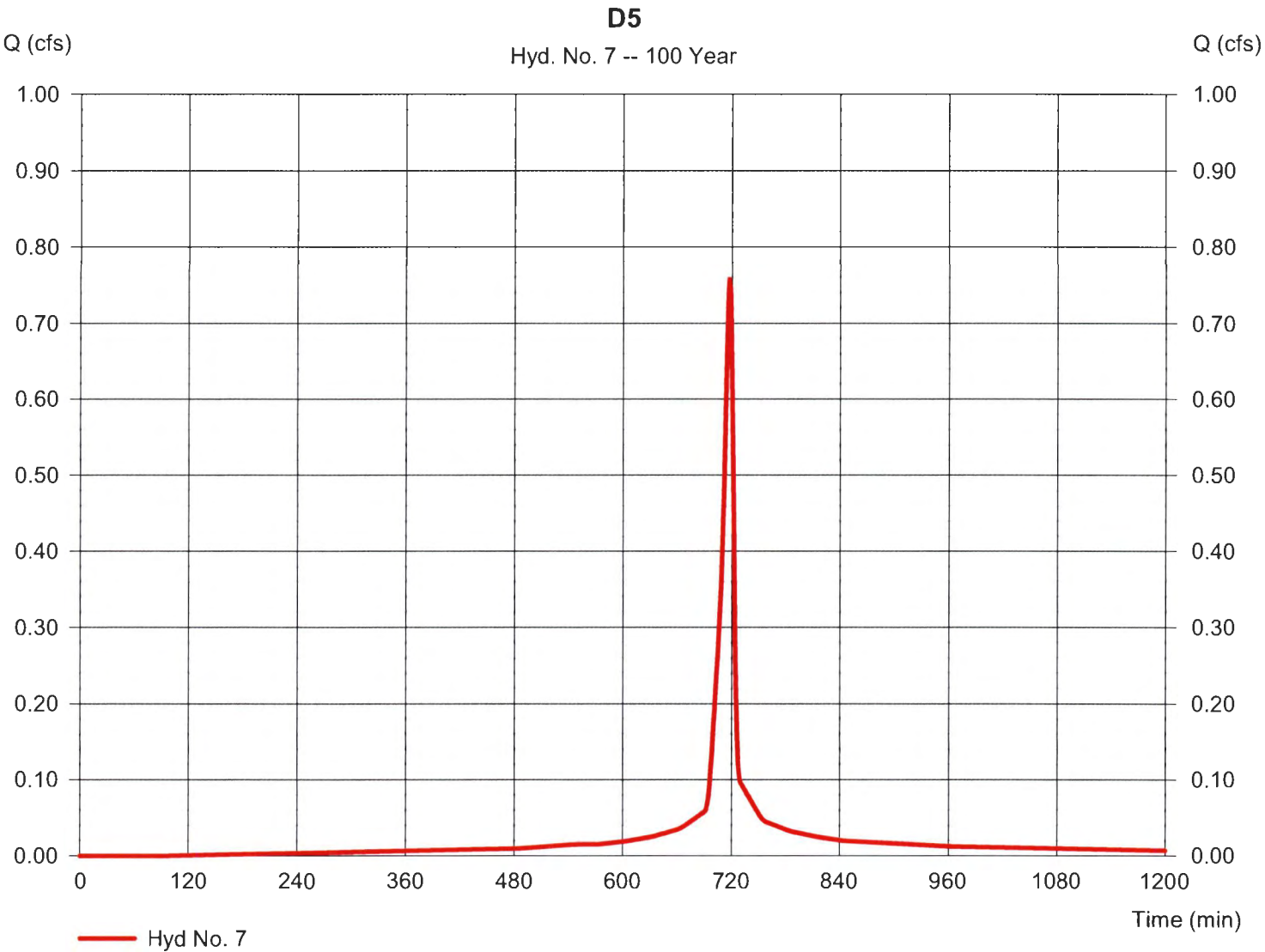


Hydrograph Report

Hyd. No. 7

D5

Hydrograph type	= SCS Runoff	Peak discharge	= 0.758 cfs
Storm frequency	= 100 yrs	Time to peak	= 717 min
Time interval	= 1 min	Hyd. volume	= 1,774 cuft
Drainage area	= 0.195 ac	Curve number	= 98
Basin Slope	= 0.0 %	Hydraulic length	= 0 ft
Tc method	= TR55	Time of conc. (Tc)	= 5.10 min
Total precip.	= 2.66 in	Distribution	= Type II
Storm duration	= 24 hrs	Shape factor	= 484



Channel Report

North Ditch

Triangular

Side Slopes (z:1) = 10.00, 3.00
Total Depth (ft) = 0.50

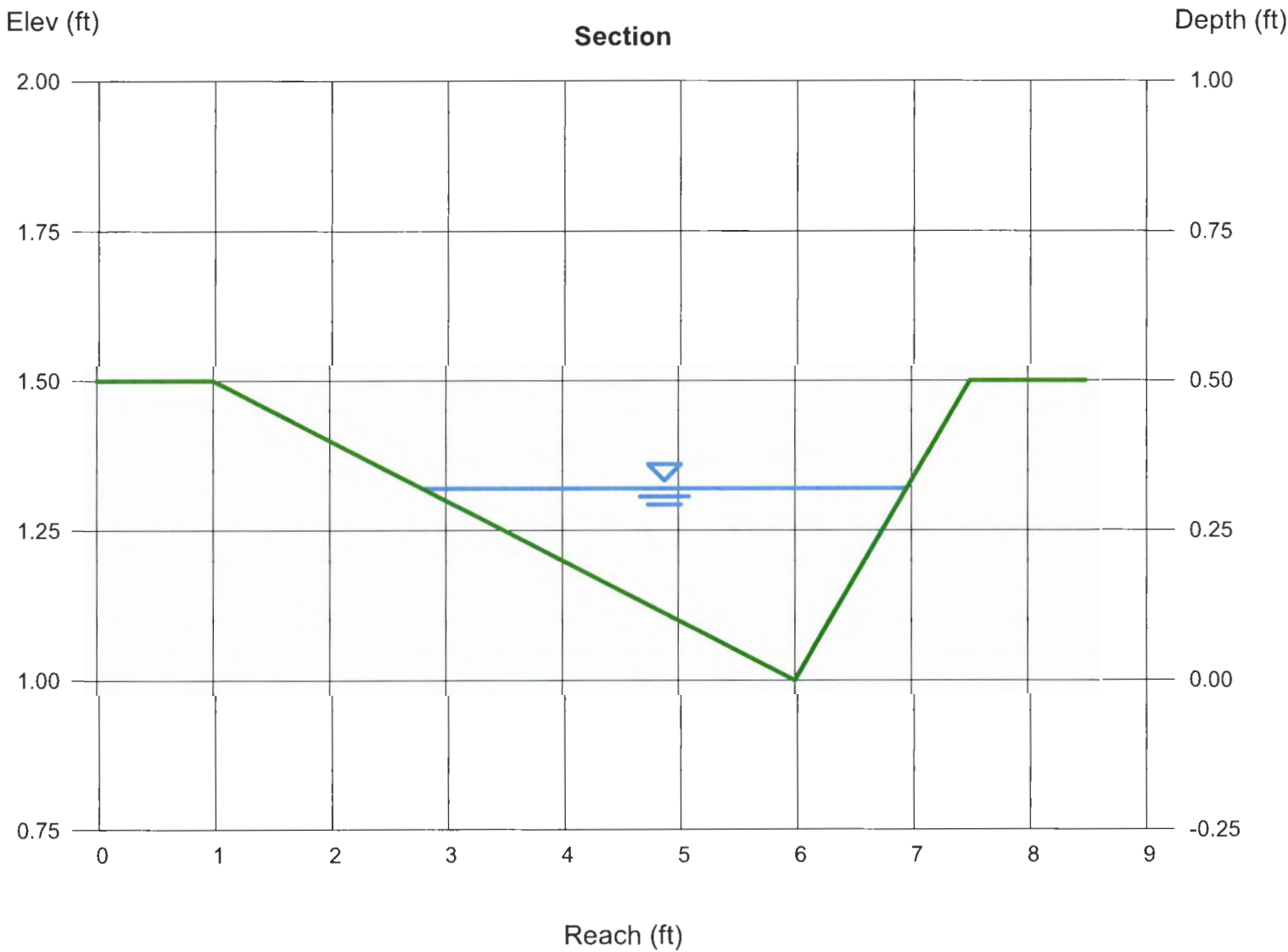
Invert Elev (ft) = 1.00
Slope (%) = 3.80
N-Value = 0.020

Calculations

Compute by: Known Q
Known Q (cfs) = 2.76

Highlighted

Depth (ft) = 0.32
Q (cfs) = 2.760
Area (sqft) = 0.67
Velocity (ft/s) = 4.15
Wetted Perim (ft) = 4.23
Crit Depth, Yc (ft) = 0.41
Top Width (ft) = 4.16
EGL (ft) = 0.59



Channel Report

Hydraflow Express Extension for Autodesk® Civil 3D® by Autodesk, Inc.

Tuesday, Jul 21 2020

South Ditch

Triangular

Side Slopes (z:1) = 3.00, 10.00
Total Depth (ft) = 0.50

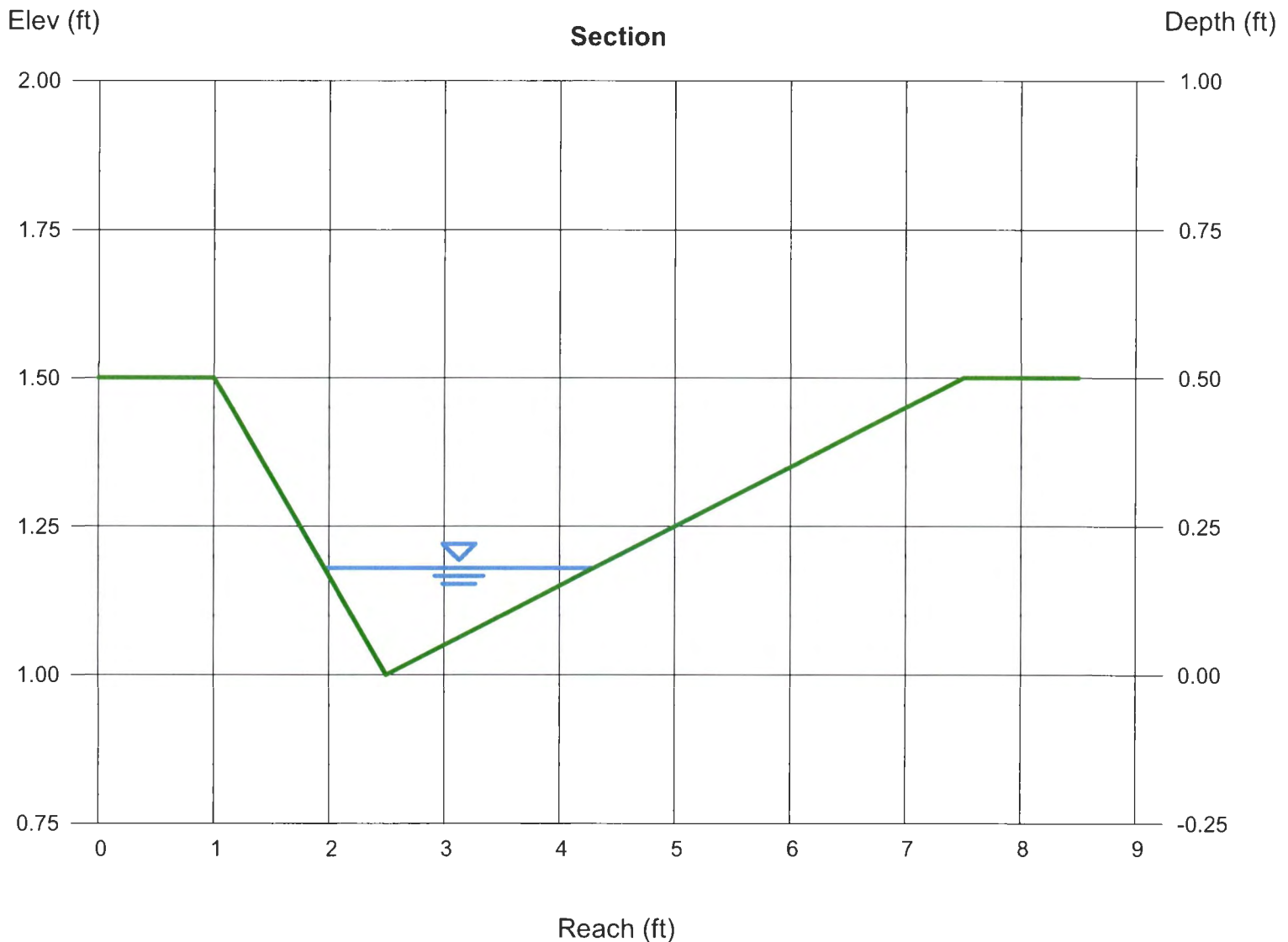
Invert Elev (ft) = 1.00
Slope (%) = 1.00
N-Value = 0.020

Calculations

Compute by: Known Q
Known Q (cfs) = 0.31

Highlighted

Depth (ft) = 0.18
Q (cfs) = 0.310
Area (sqft) = 0.21
Velocity (ft/s) = 1.47
Wetted Perim (ft) = 2.38
Crit Depth, Yc (ft) = 0.17
Top Width (ft) = 2.34
EGL (ft) = 0.21



Channel Report

Hydraflow Express Extension for Autodesk® Civil 3D® by Autodesk, Inc.

Tuesday, Jul 21 2020

Combined Ditch

Triangular

Side Slopes (z:1) = 5.00, 5.00
Total Depth (ft) = 1.00

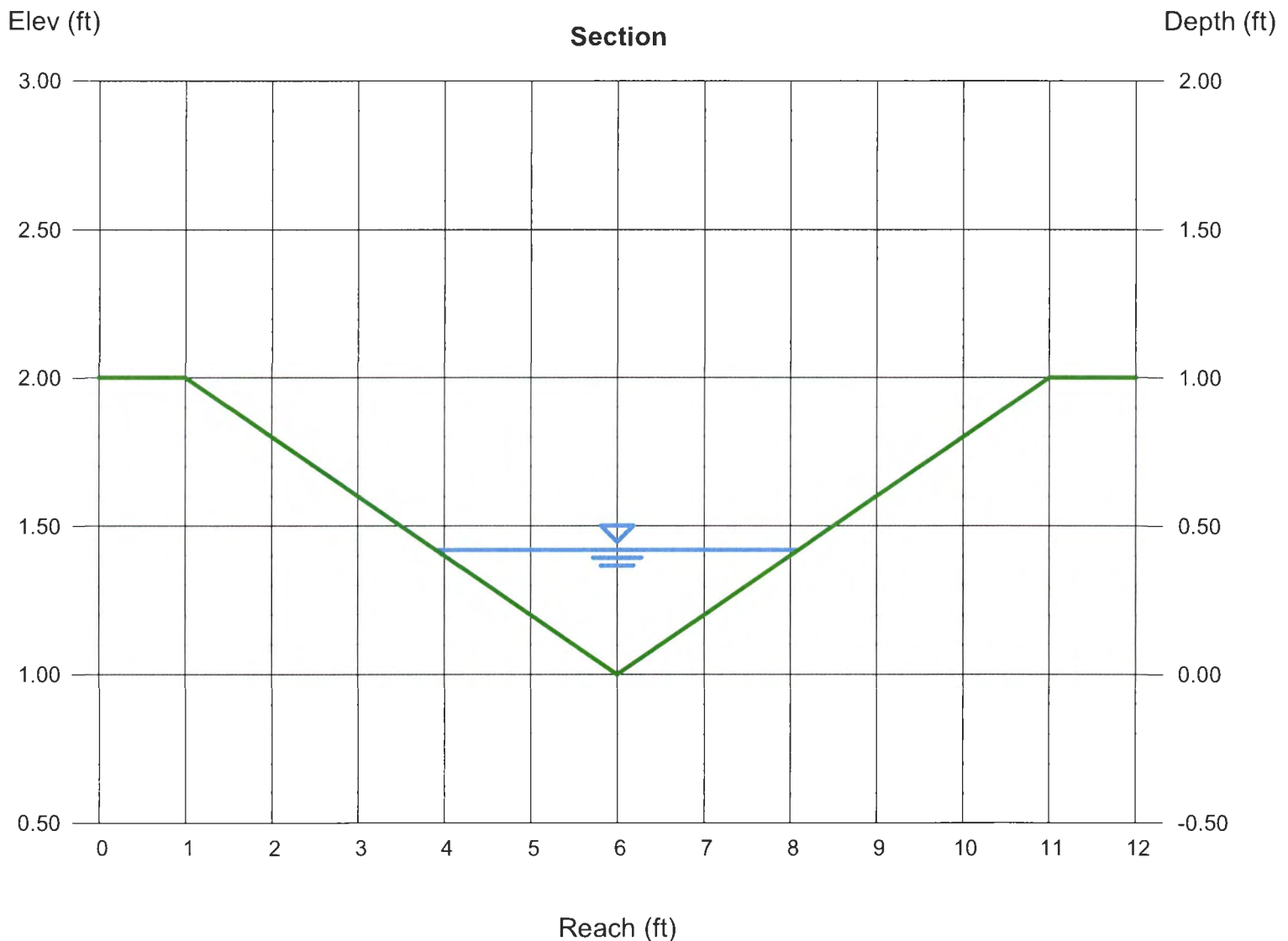
Invert Elev (ft) = 1.00
Slope (%) = 4.00
N-Value = 0.020

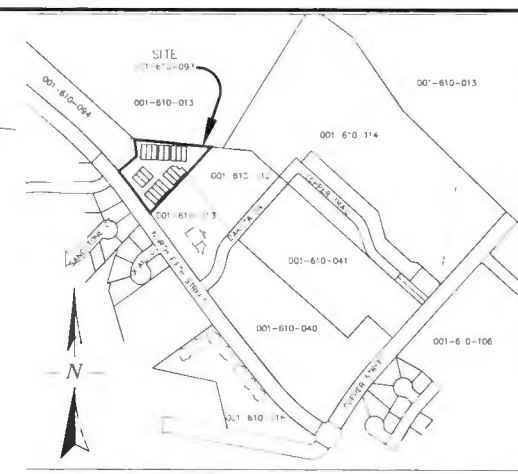
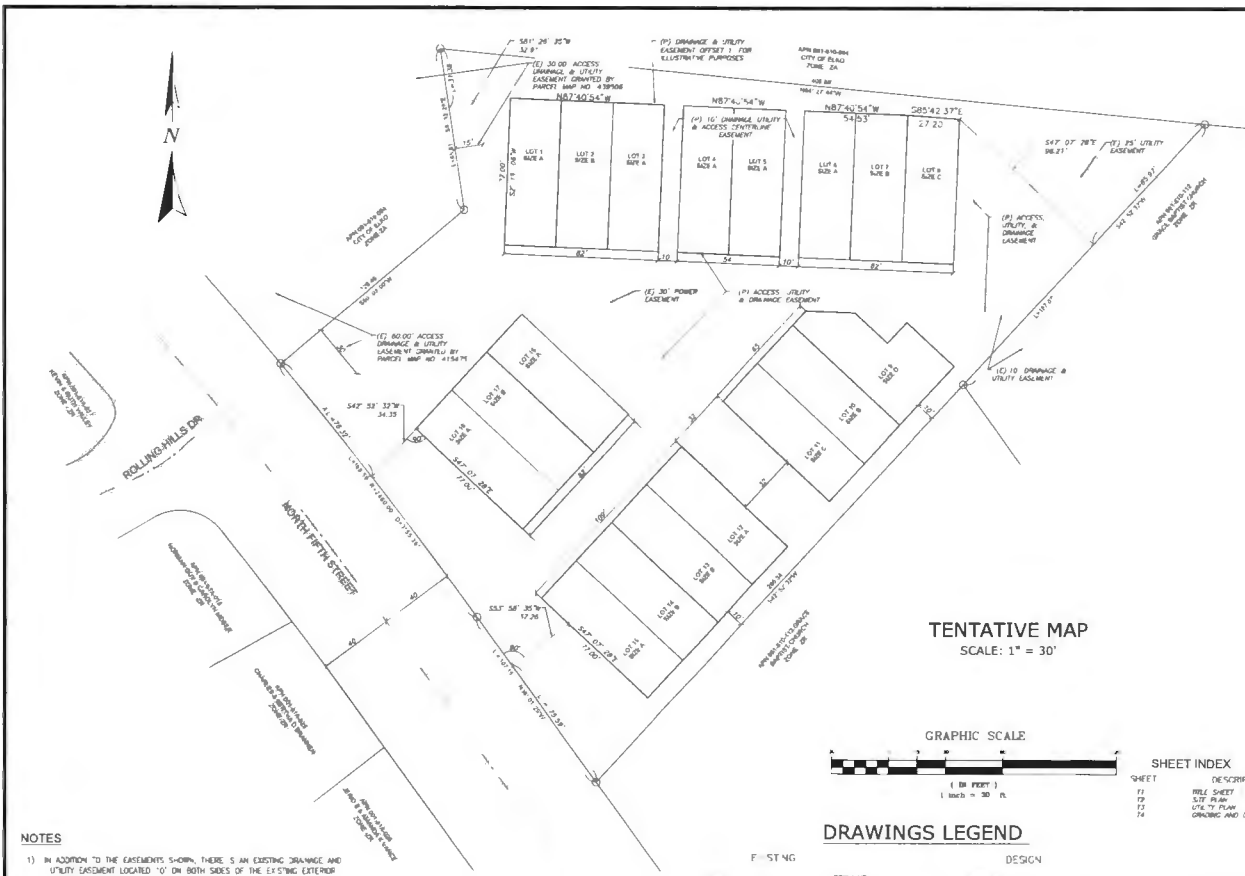
Calculations

Compute by: Known Q
Known Q (cfs) = 4.34

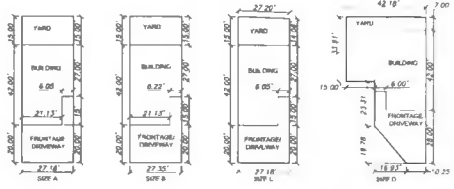
Highlighted

Depth (ft) = 0.42
Q (cfs) = 4.340
Area (sqft) = 0.88
Velocity (ft/s) = 4.92
Wetted Perim (ft) = 4.28
Crit Depth, Yc (ft) = 0.55
Top Width (ft) = 4.20
EGL (ft) = 0.80



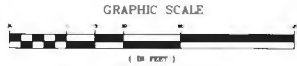


- NOTES**
- IN ADDITION TO THE EASEMENTS SHOWN, THERE IS AN EXISTING DRAINAGE AND UTILITY EASEMENT LOCATED 10' ON BOTH SIDES OF THE EXISTING EXTERIOR PROPERTY LINES PER PARCEL MAP 415475.
 - GRADING QUANTITIES: APPROXIMATELY 5,600 CY UNCLASSIFIED EXCAVATION (BALANCED OUT TO FILL).
 - LEGAL DESCRIPTION: APN 001-610-093, PARCELS 1 & 2, AVERDOW MAP FILE NO. 548051 AS FILED IN THE OFFICE OF THE ELKO COUNTY CLERK. THE PARCELS CONTAIN 2.16 ACRES MORE OR LESS.
 - ACCESS TO INDIVIDUAL TOWN-HOME PARCELS IS RESTRICTED FROM N 5TH ST.



LOT DIMENSIONS
SCALE: 1" = 30'

TENTATIVE MAP
SCALE: 1" = 30'



DRAWINGS LEGEND

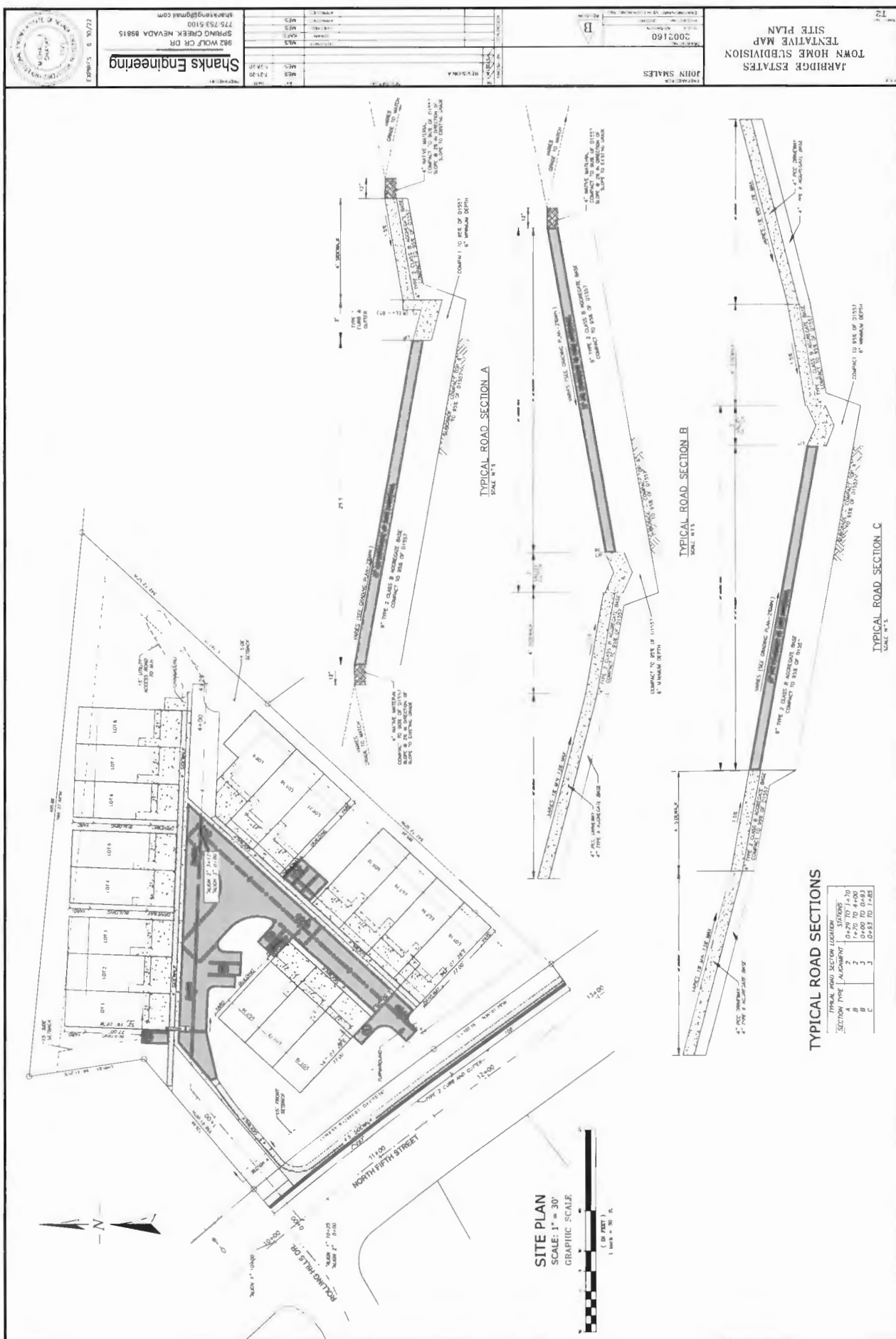


SUBDIVISION INFORMATION	
DEVELOPER	JARRIDGE ESTATES
CONTACT	LEGION CONSTRUCTION AND DEVELOPMENT, LLC 599 SHADYBROOK DR SPRING VALLEY, NY 10815
LOCATION	NE 1/4 NW 1/4 OF SECTION 9 T. 34N R. 55E W.D.
APN AND LEGAL	001-610-093 PARCELS 1 & 2 FILE 530051
ADJACENT	NW 1/4 ASSIGNED
NUMBER OF LOTS	18
TOTAL SUBDIVIDED AREA	2.16 AC.
LOT AREA	0.87 AC.
COMMON AREA	1.29 AC.
DEDICATED STREETS	0.0 AC.
GROSS NET DENSITY	8.33 UNITS/AC.
AVERAGE SLOPE	5.2%
LOCATION OF NEAREST WELL WATERCOURSE OF LAKE	8 MILE CREEK OVER 200'
LOCATION OF NEAREST SEPTIC SYSTEM	NONE (WT N 100')
PROJECT DATA	
EXISTING ZONING	AG, GENERAL AGRICULTURE DISTRICT
PROPOSED ZONING	R, SINGLE-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL DISTRICT
MINIMUM SET BACKS	15'
FRONT	15'
REAR	15'
INTERIOR SIDE	15'
EXTENSION SIDE	15'
MAXIMUM BUILDING HEIGHT	25'
SPECIAL FLOOD HAZARD	NONE
COMMUNITY NUMBER	330010
MAP NUMBER	2002160
EFFECTIVE DATE	5/4/13
PAVING REQUIREMENTS	2 PER INCH (MIN. 36)
PARKING PROVIDED	45
FIRE FLOW REQUIRED	1,500 GPM
DURATION	2 - 405
UTILITIES	
WATER SUPPLY	CITY OF ELKO, NEVADA
SEWERAGE	CITY OF ELKO, NEVADA
ELECTRICAL	NV ENERGY
NATURAL GAS	SOUTHWEST GAS CORP.
TELEPHONE SERVICE	FRONTIER COMMUNICATIONS
TELEVISION SERVICE	JTC MEDIA

Shanks Engineering
883 WOLF CREEK DR
SPRING CREEK, NEVADA 89815
775-753-5100
shankseng@gmail.com

PROJECT NO. 2002160
SHEET NO. 1
DATE 5/4/13

JARRIDGE ESTATES
TOWN HOME SUBDIVISION
TENTATIVE MAP
TITLE SHEET / LOT LAYOUT



STREET	ACCOMMODATE	STRENGTH	DEPTH
1	2	12-20	3.5'
2	3	14-20	3.5'
3	4	16-20	3.5'
4	5	18-20	3.5'
5	6	20-20	3.5'
6	7	22-20	3.5'
7	8	24-20	3.5'
8	9	26-20	3.5'
9	10	28-20	3.5'
10	11	30-20	3.5'
11	12	32-20	3.5'
12	13	34-20	3.5'
13	14	36-20	3.5'
14	15	38-20	3.5'
15	16	40-20	3.5'
16	17	42-20	3.5'
17	18	44-20	3.5'
18	19	46-20	3.5'
19	20	48-20	3.5'
20	21	50-20	3.5'
21	22	52-20	3.5'
22	23	54-20	3.5'
23	24	56-20	3.5'
24	25	58-20	3.5'
25	26	60-20	3.5'
26	27	62-20	3.5'
27	28	64-20	3.5'
28	29	66-20	3.5'
29	30	68-20	3.5'
30	31	70-20	3.5'
31	32	72-20	3.5'
32	33	74-20	3.5'
33	34	76-20	3.5'
34	35	78-20	3.5'
35	36	80-20	3.5'
36	37	82-20	3.5'
37	38	84-20	3.5'
38	39	86-20	3.5'
39	40	88-20	3.5'
40	41	90-20	3.5'
41	42	92-20	3.5'
42	43	94-20	3.5'
43	44	96-20	3.5'
44	45	98-20	3.5'
45	46	100-20	3.5'
46	47	102-20	3.5'
47	48	104-20	3.5'
48	49	106-20	3.5'
49	50	108-20	3.5'
50	51	110-20	3.5'
51	52	112-20	3.5'
52	53	114-20	3.5'
53	54	116-20	3.5'
54	55	118-20	3.5'
55	56	120-20	3.5'
56	57	122-20	3.5'
57	58	124-20	3.5'
58	59	126-20	3.5'
59	60	128-20	3.5'
60	61	130-20	3.5'
61	62	132-20	3.5'
62	63	134-20	3.5'
63	64	136-20	3.5'
64	65	138-20	3.5'
65	66	140-20	3.5'
66	67	142-20	3.5'
67	68	144-20	3.5'
68	69	146-20	3.5'
69	70	148-20	3.5'
70	71	150-20	3.5'
71	72	152-20	3.5'
72	73	154-20	3.5'
73	74	156-20	3.5'
74	75	158-20	3.5'
75	76	160-20	3.5'
76	77	162-20	3.5'
77	78	164-20	3.5'
78	79	166-20	3.5'
79	80	168-20	3.5'
80	81	170-20	3.5'
81	82	172-20	3.5'
82	83	174-20	3.5'
83	84	176-20	3.5'
84	85	178-20	3.5'
85	86	180-20	3.5'
86	87	182-20	3.5'
87	88	184-20	3.5'
88	89	186-20	3.5'
89	90	188-20	3.5'
90	91	190-20	3.5'
91	92	192-20	3.5'
92	93	194-20	3.5'
93	94	196-20	3.5'
94	95	198-20	3.5'
95	96	200-20	3.5'
96	97	202-20	3.5'
97	98	204-20	3.5'
98	99	206-20	3.5'
99	100	208-20	3.5'
100	101	210-20	3.5'
101	102	212-20	3.5'
102	103	214-20	3.5'
103	104	216-20	3.5'
104	105	218-20	3.5'
105	106	220-20	3.5'
106	107	222-20	3.5'
107	108	224-20	3.5'
108	109	226-20	3.5'
109	110	228-20	3.5'
110	111	230-20	3.5'
111	112	232-20	3.5'
112	113	234-20	3.5'
113	114	236-20	3.5'
114	115	238-20	3.5'
115	116	240-20	3.5'
116	117	242-20	3.5'
117	118	244-20	3.5'
118	119	246-20	3.5'
119	120	248-20	3.5'
120	121	250-20	3.5'
121	122	252-20	3.5'
122	123	254-20	3.5'
123	124	256-20	3.5'
124	125	258-20	3.5'
125	126	260-20	3.5'
126	127	262-20	3.5'
127	128	264-20	3.5'
128	129	266-20	3.5'
129	130	268-20	3.5'
130	131	270-20	3.5'
131	132	272-20	3.5'
132	133	274-20	3.5'
133	134	276-20	3.5'
134	135	278-20	3.5'
135	136	280-20	3.5'
136	137	282-20	3.5'
137	138	284-20	3.5'
138	139	286-20	3.5'
139	140	288-20	3.5'
140	141	290-20	3.5'
141	142	292-20	3.5'
142	143	294-20	3.5'
143	144	296-20	3.5'
144	145	298-20	3.5'
145	146	300-20	3.5'
146	147	302-20	3.5'
147	148	304-20	3.5'
148	149	306-20	3.5'
149	150	308-20	3.5'
150	151	310-20	3.5'
151	152	312-20	3.5'
152	153	314-20	3.5'
153	154	316-20	3.5'
154	155	318-20	3.5'
155	156	320-20	3.5'
156	157	322-20	3.5'
157	158	324-20	3.5'
158	159	326-20	3.5'
159	160	328-20	3.5'
160	161	330-20	3.5'
161	162	332-20	3.5'
162	163	334-20	3.5'
163	164	336-20	3.5'
164	165	338-20	3.5'
165	166	340-20	3.5'
166	167	342-20	3.5'
167	168	344-20	3.5'
168	169	346-20	3.5'
169	170	348-20	3.5'
170	171	350-20	3.5'
171	172	352-20	3.5'
172	173	354-20	3.5'
173	174	356-20	3.5'
174	175	358-20	3.5'
175	176	360-20	3.5'
176	177	362-20	3.5'
177	178	364-20	3.5'
178	179	366-20	3.5'
179	180	368-20	3.5'
180	181	370-20	3.5'
181	182	372-20	3.5'
182	183	374-20	3.5'
183	184	376-20	3.5'
184	185	378-20	3.5'
185	186	380-20	3.5'
186	187	382-20	3.5'
187	188	384-20	3.5'
188	189	386-20	3.5'
189	190	388-20	3.5'
190	191	390-20	3.5'
191	192	392-20	3.5'
192	193	394-20	3.5'
193	194	396-20	3.5'
194	195	398-20	3.5'
195	196	400-20	3.5'
196	197	402-20	3.5'
197	198	404-20	3.5'
198	199	406-20	3.5'
199	200	408-20	3.5'
200	201	410-20	3.5'
201	202	412-20	3.5'
202	203	414-20	3.5'
203	204	416-20	3.5'
204	205	418-20	3.5'
205	206	420-20	3.5'
206	207	422-20	3.5'
207	208	424-20	3.5'
208	209	426-20	3.5'
209	210	428-20	3.5'
210	211	430-20	3.5'
211	212	432-20	3.5'
212	213	434-20	3.5'
213	214	436-20	3.5'
214	215	438-20	3.5'
215	216	440-20	3.5'
216	217	442-20	3.5'
217	218	444-20	3.5'
218	219	446-20	3.5'
219	220	448-20	3.5'
220	221	450-20	3.5'
221	222	452-20	3.5'
222	223	454-20	3.5'
223	224	456-20	3.5'
224	225	458-20	3.5'
225	226	460-20	3.5'
226	227	462-20	3.5'
227	228	464-20	3.5'
228	229	466-20	3.5'
229	230	468-20	3.5'
230	231	470-20	3.5'
231	232	472-20	3.5'
232	233	474-20	3.5'
233	234	476-20	3.5'
234	235	478-20	3.5'
235	236	480-20	3.5'
236	237	482-20	3.5'
237	238	484-20	3.5'
238	239	486-20	3.5'
239	240	488-20	3.5'
240	241	490-20	3.5'
241	242	492-20	3.5'
242	243	494-20	3.5'
243	244	496-20	3.5'
244	245	498-20	3.5'
245	246	500-20	3.5'
246	247	502-20	3.5'
247	248	504-20	3.5'
248	249	506-20	3.5'
249	250	508-20	3.5'
250	251	510-20	3.5'
251	252	512-20	3.5'
252	253	514-20	3.5'
253	254	516-20	3.5'
254	255	518-20	3.5'
255	256	520-20	3.5'
256	257	522-20	3.5'
257	258	524-20	3.5'
258	259	526-20	3.5'
259	260	528-20	3.5'
260	261	530-20	3.5'
261	262	532-20	3.5'
262	263	534-20	3.5'
263	264	536-20	3.5'
264	265	538-20	3.5'
265	266	540-20	3.5'
266	267	542-20	3.5'
267	268	544-20	3.5'
268	269	546-20	3.5'
269	270	548-20	3.5'
270	271	550-20	3.5'
271	272	552-20	3.5'
272	273	554-20	3.5'
273	274	556-20	3.5'
274	275	558-20	3.5'
275	276	560-20	3.5'
276	277	562-20	3.5'
277	278	564-20	3.5'
278	279	566-20	3.5'
279	280	568-20	3.5'
280	281	570-20	3.5'
281	282	572-20	3.5'
282	283	574-20	3.5'
283	284	576-20	3.5'
284	285	578-20	3.5'
285	286	580-20	3.5'
286	287	582-20	3.5'
287	288	584-20	3.5'
288	289	586-20	3.5'
289	290	588-20	3.5'
290	291	590-20	3.5'
291	292	592-20	3.5'
292	293	594-20	3.5'
293	294	596-20	3.5'
294	295	598-20	3.5'
295	296	600-20	3.5'
296	297	602-20	3.5'
297	298	604-20	3.5'
298	299	606-20	3.5'
299	300	608-20	3.5'
300	301	610-20	3.5'
301	302	612-20	3.5'
302	303	614-20	3.5'
303	304	616-20	3.5'
304	305	618-20	3.5'
305	306	620-20	3.5'
306	307	622-20	3.5'
307	308	624-20	

