



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, December 10, 2019

Elko City Hall, 1751 College Avenue, Elko, NV 89801, at 4:00 P.M., P.S.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, NV 89801
Date: Time Posted: Wednesday, December 5, 2019 at 8:30 a.m.

ELKO COUNTY COURTHOUSE
571 Idaho Street, Elko, NV 89801
Date/Time Posted: Wednesday, December 5, 2019 at 8:40 a.m.

ELKO POLICE DEPARTMENT
1448 Silver, Elko NV 89801
Date/Time Posted: Wednesday, December 5, 2019 at 8:50 a.m.

ELKO COUNTY LIBRARY
720 Court Street, Elko, NV 89801
Date/Time Posted: Wednesday, December 5, 2019 at 9:00 a.m.

Posted by: **Kim Wilkinson** Administrative Assistant
Name Title

Kim Wilkinson
Signature

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 5th day of December, 2019

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
Curtis Calder, City Manager
Elko, Nevada

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.S.T., TUESDAY, DECEMBER 10, 2019
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA

CALL TO ORDER

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

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: November 26, 2019 Regular Session

I. PRESENTATIONS

- A. Presentation by Mark Robison, Senior Consultant with the Humane Network and Co-Executive Director of Maddie's Pet Project regarding Trap-Neuter-Return (TNR) programs, including possible action to initiate amendments to Title 5, Chapter 3 of the Elko City Code to allow for TNR within the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Presentation of Integration of potential fire department portable radios into the self-contained breathing apparatus worn by fire department personnel, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko Fire Department has applied for a grant for portable radios and looking to replace them in the next year if grant funding does not happen. These radios integrate into the current self-contained breathing apparatus via Bluetooth and will increase firefighter safety and enhance communication between responders and the incident commander. JS

II. CONSENT AGENDA

- A. Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the United States Marshal Service, and matters related thereto. **FOR POSSIBLE ACTION**

The purpose of this MOU is to delineate the responsibilities of the U.S. Marshal Service personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT

- B. Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation, Northern Nevada Safe Streets Task Force (SSTF) for operational support, and matters related thereto. **FOR POSSIBLE ACTION**

The purpose of this MOU is to delineate the responsibilities of the Federal Bureau of Investigation Northern Nevada SSTF; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT

III. 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**

IV. UNFINISHED BUSINESS

- A. Review, consideration and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications Incorporated for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

At the November 26, 2019 Council Meeting, City Council tabled this item and directed Staff to bring the item back at the December 10, 2019 City Council meeting. The proposed term of the agreement is 10 (ten) years and provides for a 5 (five) year renewal provided the terms and conditions remain the same. The proposed franchise fee is 5 (five) percent of the gross revenues actually collected from customers located within the corporate limits of the City. SAW

- B. Status update on the Public Nuisance complaint regarding 403 Pine Street, and matters related thereto. **INFORMATION ITEM ONLY – NON ACTION ITEM**

Based upon City Council action on November 27, 2019, Staff is providing a status update with regard to 403 Pine Street. MR

V. NEW BUSINESS

- A. Review, consideration, and possible action to accept a letter of resignation from Mr. Ian Montgomery from the Planning Commission, and to further authorize Staff to commence with the standard recruitment process to fill the vacancy on the Planning Commission, and matters related thereto. **FOR POSSIBLE ACTION**

This resignation is a result of Mr. Montgomery's work schedule conflicting with the Planning Commission meetings. CL

- B. Review, consideration, and possible approval of the First Amendment to the Agreement to Install Improvements and Provide Maintenance Guaranty with DDS Properties, LLC for the Humboldt Hills Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

As required by Elko City Code 3-3-21, the City and DDS Properties, LLC entered into an agreement to install improvements for the Humboldt Hills Subdivision on February 12, 2019. The agreement to install improvements stated that the developer would construct the subdivision improvements with its own resources. However, in some cases, the developer may decide to post a performance guaranty, then record a final map and begin construction prior to the completion of the subdivision improvements. In this case, DDS Properties has completed some of the subdivision improvements for the Humboldt Hills Subdivision, but has chosen to post a performance guaranty in accordance with Elko City Code 3-3-22 and Section 1.A of the agreement to install improvements for the remainder of the work. To accomplish this, staff has determined that the City and the developer need to revise language in the agreement to install improvements that is inconsistent with posting a performance guaranty for the remaining work. To permit the developer to post a performance guaranty while staying in compliance with the agreement to install improvements, staff is recommending the proposed First Amendment. MR

- C. Review, consideration and possible approval of a lease agreement between the City of Elko, Elko Regional Airport and Nevada Gold Mines, LLC at the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

Nevada Gold Mines wishes to enter into a two (2) year lease agreement with the Elko Regional Airport for the lease of 20 parking spaces located at the airport terminal. The current lease will expire on December 31, 2019. JF

- D. Review, consideration and possible approval of a Hangar (C6 and D3) Lease Agreement with Mark and Kim Hooper, and matters related thereto. **FOR POSSIBLE ACTION**

Mr. Hooper recently purchased Hangars C6 and D3 from Ann Barron and Ron Privasky and a new Lease Agreement needs to be completed with Mark and Kim Hooper. Additionally, airport ground leases of less than one-half an acre are no longer subject to appraisal/auction process for cities whose population is less than 25,000 (NRS 496.80) JF

- E. Review, consideration, and possible appointment of Jan Baum, Financial Services Director, City of Elko, as Property and Equipment Officer, and matters related thereto. **FOR POSSIBLE ACTION**

2019 Hinton Burdick Audit Finding/Recommendation:

2019-004 Property and Equipment Officer

Finding

We noted that with the separation of the previous Administrative Services Director, the State had not been notified of the change in the Property and Equipment Designated Officer required under NRS 354.625. We did not note anywhere in the minutes of the City where the designation took place during a council meeting.

Recommendation

We recommend that the City designate a Property and Equipment Designated Officer as required by NRS 354.625. JB

VI. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible adoption of Resolution No. 19-18, a resolution amending the Water User Meter Fees pursuant to Elko City Code Title 9, Chapter 1, and Section 29, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-18 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the Water User Meter Fees 5% per year over the next three years. KW

- B. Review, consideration, and possible adoption of Resolution No. 19-19, a resolution amending the water flat rate user fees pursuant to Elko City Code Title 9, Chapter 1, and section 29, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the Water Study completed by Farr West Engineering and directed staff to complete a business impact statement on water rate increases at the

September 9, 2019 City Council Meeting. At the November 12, 2019 meeting City Council accepted the business impact statement and found that Resolution 19-19 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the water flat rate user fees 5% per year over the next three years. KW

- C. Review, consideration, and possible adoption of Resolution No. 19-20, a resolution setting the fees for Fire Protection Services Line pursuant to Elko City Code Title 9, Chapter 1, Section 29, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-20 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution establishes a fee for the Fire Protection Service Line Pursuant to Ordinance No. 846. KW

VII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Police Chief issuing a 30-day Temporary Retail Wine and/or Beer License and recommended denial of the request to issue a Regular Retail Wine and/or Beer License, to Jorge, DBA Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

VIII. 5:30 P.M. PUBLIC HEARINGS

- A. Second reading, public hearing, and possible adoption of Ordinance No. 846, an ordinance amending Title 9 Chapter 1, section 3 adding a definition of fire protection service line and section 29, adding a Fire Protection Service Fee, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases at the September 9, 2019 Council Meeting. At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Ordinance No 846 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. First reading of this ordinance was held on November 26, 2019. KW

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
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

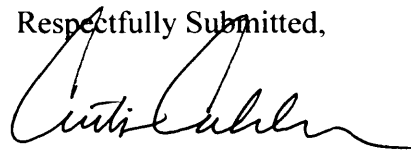
COMMENTS BY THE GENERAL PUBLIC

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. **ACTION WILL NOT BE TAKEN**

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 November 26, 2019

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, November 26, 2019.

This meeting was called to order by Mayor Reece Keener.

CALL TO ORDER

ROLL CALL

Mayor Present: Reece Keener

Council Present: Councilwoman Mandy Simons
 Councilman Bill Hance

Council Absent: Councilman Robert Schmidtlein
 Councilman Chip Stone

City Staff Present: Curtis Calder, City Manager
 Scott Wilkinson, Assistant City Manager
 Dale Johnson, Utilities Director
 Kelly Wooldridge, City Clerk
 Michele Rambo, Development Manager
 Candi Quilici, Accounting Manager
 Jan Baum, Financial Services Director
 Susie Shurtz, Human Resources Manager
 Dennis Strickland, Public Works Director
 Shane Fertig, Landfill Superintendent
 Cathy Laughlin, City Planner
 Jim Foster, Airport Manager
 Jeff Ford, Building Official
 Matt Griego, Fire Chief
 Jack Snyder, Deputy Fire Chief
 John Holmes, Fire Marshal
 Ty Trouten, Police Chief
 Diann Byington, Recording Secretary

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**

There were no public comments.

APPROVAL OF MINUTES: November 12, 2019 Regular Session

The minutes were approved by general consent.

I. PRESENTATIONS

- A. A proclamation by the Mayor in recognition of Small Business Saturday, and matters related thereto. **INFORMATION ITEM ONLY – NON ACTION ITEM**

Mayor Keener read the proclamation.

- B. A proclamation by the Mayor in recognition of National Home Care Month, and matters related thereto. **INFORMATION ITEM ONLY – NON ACTION ITEM**

Marcella Raine, Genesis Home Health, spoke about the services the company offers to citizens in the area.

Mayor Keener read the proclamation and gave a copy of it to Ms. Raine.

- C. Presentation and possible approval of the Consolidated Annual Financial Report and Audit for the City of Elko for the Fiscal Year ending June 30, 2019, including but not limited to, Staff response to audit findings, and matters related thereto. **FOR POSSIBLE ACTION**

Mike Spilker with Hinton Burdick CPAs will be in attendance to present the City of Elko's Fiscal Year 2018/2019 Financial Report. JB

Jan Baum, Financial Services Director, introduced Mike Spilker with Hinton Burdick CPAs.

Mike Spilker, Hinton Burdick CPAs, gave a presentation regarding the Annual Audit (Exhibit "A").

Curtis Calder, City Manager, asked about the pension liability. It is his understanding that the State, through their actuarial process, figures out what the statewide deficit is in the PERS pension plan, and then they divvy that liability up to the individual local governments. We have a little piece of a great big pie.

Mr. Spilker said it is based on each local government's participation level in the pension plan.

Mayor Keener said he appreciates the charts used. It makes it easier for Council to understand.

Mr. Spilker thanked the staff for their assistance.

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to approve the Consolidated Annual Financial Report and Audit for the City of Elko for the Fiscal Year ending June 30, 2019.**

The motion passed unanimously. (3-0)

II. PERSONNEL

A. Employee Introductions:

- 1) Mr. Christopher Braden, Landfill Equipment Operator, Public Works
Present and introduced.

III. APPROPRIATIONS

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

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

The motion passed unanimously. (3-0)

After the motion and vote, Councilwoman Simons asked about a payment for \$1000 to FISH for homeless.

Curtis Calder, City Manager, explained we have an agreement with FISH to provide the bus service to FISH through NEAT. Some of those passengers are grant funded and some aren't. All of those that are not grant funded we pay for. We probably only pay this once or twice a year.

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

NO ACTION

C. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. FOR POSSIBLE ACTION

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to approve the Great Basin Engineering Warrants.**

The motion passed unanimously. (3-0)

D. Review, consideration, and possible direction to Staff to solicit bids for the 18" Water Line Relocation Project, and matters related thereto. FOR POSSIBLE ACTION

When the contractor was installing utilities for Dunkin Donuts, the 18" water main was found in the parcel where the building will be located. Approximately 240' of 18" water main will need to be relocated into the existing utility easement where it belongs. A portion of the water line will also need to be removed where the proposed building will be located. This project has been designed, engineered, and plans have been approved by NDEP. Staff is ready to go to bid with this project. DJ

Dale Johnson, Utilities Director, said they are asking to solicit bids for the relocation of this 18-inch waterline.

Councilman Hance said he heard there will be a significant outage to some of the apartments downstream of that location.

Mr. Johnson said the Water Department will install a valve near the apartments and they will be out about 8 hours on one day. They will coordinate with the apartment complex to do it on their best timeframe. It was indicated on the overhead where the easement is and where the waterline is.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to direct staff to solicit bids for the 18-Inch Waterline Relocation.**

The motion passed unanimously. (3-0)

IV. UNFINISHED BUSINESS

- A. Status update on the Public Nuisance complaint regarding 403 Pine Street, and matters related thereto. **INFORMATION ITEM ONLY – NON ACTION ITEM**

Based upon City Council action on October 22, 2019, Staff is providing a status update with regard to 403 Pine Street. CC

Michele Rambo, Development Manager, explained we are at day 35 of the agreement. There is a potential buyer for the place so we have not been able to get onsite to examine the property. She does have a structural engineer ready to go in the event the buyer does not enter into contract by December 22.

Mayor Keener said he hasn't heard anything on this. It appears the transient issue has been abated.

Ms. Rambo said she drives by it often to check it out and has not seen anything.

V. NEW BUSINESS

- A. Review, consideration and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications Incorporated for Data Communications Over, Under, In, Along and Across Public

Roads in the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

The proposed term of the agreement is 10 (ten) years and provides for a 5 (five) year renewal provided the terms and conditions remain the same. The proposed franchise fee is 5 (five) percent of the gross revenues actually collected from customers located within the corporate limits of the City. CL

Mayor Keener explained the principal for this was unable to attend and asked that this item be tabled.

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to table.**

The motion passed unanimously. (3-0)

VI. RESOLUTIONS AND ORDINANCES

- A. Review, consideration, and possible adoption of Resolution No. 30-19, a resolution finding it is in the best interest of the City to sell City owned real property without offering the property for sale to the public, and matters related thereto. **FOR POSSIBLE ACTION**

At the September 24, 2019 meeting, Council approved the sale of 14,300 square feet of a 24.334 acre parcel (APN 001-610-075) of land adjacent to APN's 001-610-096, 097, & 098 based on NRS 268.061. Adoption of this Resolution finds that it is in the best interest of the City to sell City owned real property as a remnant without offering the property for sale to the public. Adopting this Resolution is the next step in the process to complete the sale. CL

Cathy Laughlin, City Planner, explained a copy of the appraisal was included in the packet. She indicated on the overhead where the parcel is located. The appraised value was \$14,300.00. With the resolution, we would go into a deed and boundary line adjustment with Koinonia Construction. They plan to build townhomes on the property.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to adopt Resolution No. 30-19.**

The motion passed unanimously. (3-0)

- B. First Reading of Ordinance No. 846, an ordinance amending Title Nine (9), Chapter one (1), section three (3), adding a definition of Fire Protection Service Line and section twenty nine (29) adding a Fire Protection Service Fee, and matters related thereto. **FOR POSSIBLE ACTION**

City Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on water rate increases at the September 9, 2019 City Council Meeting. At the November 12, 2019 meeting,

Council accepted the Business Impact Statement and found that Ordinance No. 846 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. KW

Kelly Wooldridge, City Clerk, explained in order for the water rates to go to resolution at the next Council Meeting, we needed to add a definition of Fire Protection Service Line and that the fees will be set by Council.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to conduct the first reading of Ordinance No. 846, and direct staff to set the matter for second reading, public hearing and possible adoption.**

The motion passed unanimously. (3-0)

VIII. REPORTS

A. Mayor and City Council

Mayor Keener said he met with Senator Jackie Rosen's northern Nevada representative, Travis Chappell. They brought up grants and he indicated that when there are federal grants it is helpful to have letters of support from our Senator's office.

B. City Manager

Curtis Calder reminded City Council the City Christmas Party is Friday, December 13. It will be a little different this year where the kids will have their party at the Fun Factory/Elko Explorers building located at Mountain View Elementary School. The adults will have their party at the Western Folklife Center.

C. Assistant City Manager

D. Utilities Director

E. Public Works

Shane Fertig, Landfill Superintendent, reported they had their free fall day and it went well. Mayor Keener stated he heard from Jerod at Elko Sanitation, worried that their trucks would have long waits at the scales. Mr. Fertig said they did not have a wait.

Dennis Strickland said fall days in the past have been mundane. Last year there were 560 vehicles, or loads, that went through. This year we had 378 vehicles go through. Streetlights, we have 16 that need to be fixed and 160 have been fixed since 1/1/19. NV Energy seems to be doing a good job repairing the lights.

Councilman Hance asked about leaf collection stats.

Mr. Strickland said he didn't think there will be any records broken this year and may be at 8000 approaching 9000. With the storm coming in they have been creating brine, pre-wetting salt, and he felt they will be ready for tonight.

F. Airport Manager

G. City Attorney

- H. Fire Chief
- I. Police Chief
- J. City Clerk

Kelly Wooldridge reported the Clerk's Office has been organizing City Staff and working on a donation of a tree to the Festival of Trees. Our theme is gnomes, which appear to be very popular right now. Everything for the tree has been donated by City employees and is located in the breakroom right now. Because the theme for the event is Explore Elko, we are trying to buy some passes to skiing, golf, and swimming.

- K. City Planner

Cathy Laughlin reported she and Curtis Calder met with VA representative and then went out and looked at City owned property for possible cemetery locations. They are interested in a portion of the parcel off Rocky Road and are doing their due diligence before they decide if they want to purchase it.

Curtis Calder said this location would be preferable to the other location they were looking at, and the City can serve it irrigation water at that level. The VA is looking to develop about 4400 plots for this part of the state.

Mayor Keener asked about the Union Pacific property and if anything else has happened there.

Curtis Calder said everyone knows that Steiger's is down. It is beautiful now there by comparison.

Scott Wilkinson said Bob Thibault is working with Union Pacific on the VFW right-of-way. He thought that was going to be processed quickly.

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

VII. 5:30 P.M. PUBLIC HEARINGS

- A. Review, consideration, and possible action to adopt Resolution No. 29-19, a resolution of the Elko City Council adopting a change in zoning district boundaries from PC (Planned Commercial) to C (General Commercial), approximately 66.30 acres of property, referred to as APN 001-770-004, filed by Elko West Properties LLC., and processed as Rezone No. 4-19, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on November 5, 2019 and took action to forward a recommendation to City Council to adopt a resolution which approves Rezone No. 4-19. CL

Scott Wilkinson, Assistant City Manager, explained there was some comment received on this issue a few moments ago from a neighboring property. Cathy Laughlin stepped out to print out the email so we can address it.

Mayor Keener moved on to the next item and will go back to this item afterwards.

- B. Second reading, public hearing and possible adoption of Ordinance No. 847, an ordinance amending Title 2, Chapter 7 of the Elko City Code entitled "Energy Conservation Code" by adding Section R402.4.1.2 of the 2018 International Building Code entitled "Testing," and matters related thereto. **FOR POSSIBLE ACTION**

In June 2019, the City passed Ordinance No. 839 adopting the 2018 International Building Code with corresponding amendments. The City worked with the consulting firm WC 3 on this. On November 5, Mr. Chris Kimball from WC 3 informed the City that adoption of Section R.402.4.1.2 of the International Building Code of 2018, entitled "Testing," is needed for the health and safety of the public. This section provides that a building or dwelling unit must be tested and verified as having an air leakage rate not in excess of five air changes per hour. Accordingly, Chapter 7 of the Energy Conservation Code regarding leakage testing should be amended incorporate Section R.402.4.1.2 of the International Building Code of 2018. City Council heard the first reading of this ordinance and set the matter for second reading at the November 12, 2019 meeting. JF

Jeff Ford, Building Official, explained he doesn't have any new information but offered to answer questions.

Councilwoman Simons asked when they go out and test, how many air changes do they usually see.

Mr. Ford answered this is a new test they are required to do. The guy that does the duct-leaking testing says it is easy to get to a five but the code standard of three is not possible with our standards. He has done some research on this issue and he finds that having the maximum air changes at five is not a problem and that is what people are enforcing. Gary Jackson, the guy that does the testing, tells him in Fernley and Reno, he typically gets a four to a four and half.

Councilwoman Simons asked if the State has adopted anything on this. If the State has stricter standards, don't we have to abide by it?

Mr. Ford answered the mechanical code that we adopt is adopted by the State. This is out of the Uniform Mechanical Code.

Mayor Keener called for public comment.

Catherine Wines, Architect, 421 Railroad Street, said she has not done as much research on this as Mr. Ford has done but she has talked to him a lot. There are two different types of tests done, one for the air ducts and one for the whole house. She sent out some emails regarding this subject to the City of Ely and White Pine County. She was told that they did not require this testing at this time. She also sent it to the City of Winnemucca and Humboldt County, and she was told there were no contractors in the area to perform the test. Lander County said they don't require the test and it is very costly to the customer. The mechanical engineer she uses for most of her projects is in Reno and she asked him the same thing. He told her the closest people he knew of to do the testing were located in Oceanside California. HERS testing is different than

the Duct testing but HERS testing is what is being adopted. She wasn't sure why they were talking about adopting this at this time. She would be interested to know what this would cost because it makes housing less affordable.

Mr. Ford stated this is a new test required by the code that was just adopted. In 2009, it was an option and not a requirement. This is in the code now and we are relaxing the requirements.

Mayor Keener asked what it costs to perform the tests.

Mr. Ford answered he was told it would cost around \$150-\$200.

Councilwoman Simons asked if there was any input from builders on this.

Scott Wilkinson, Assistant City Manager, answered we didn't have any comment from them when we adopted the code.

There was some discussion about what we would do if there wasn't a person available locally to perform the testing.

Mr. Ford said he can't waive the code so he hopes it doesn't come to that.

Ms. Wines suggested that the City adopt the Energy Codes as a suggestion only. The Energy Codes are separate from Building Codes and are not mandatory to be adopted.

Mr. Wilkinson said we couldn't do that tonight as that is not how this is agenzized.

Mr. Ford said he has heard from people that are interested in performing the required testing. Some are HERS testers.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to conduct second reading, public hearing and adopt Ordinance No. 847.**

The motion passed unanimously. (3-0)

- A. Review, consideration, and possible action to adopt Resolution No. 29-19, a resolution of the Elko City Council adopting a change in zoning district boundaries from PC (Planned Commercial) to C (General Commercial), approximately 66.30 acres of property, referred to as APN 001-770-004, filed by Elko West Properties LLC., and processed as Rezone No. 4-19, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the subject zone change request on November 5, 2019 and took action to forward a recommendation to City Council to adopt a resolution which approves Rezone No. 4-19. CL

Mayor Keener moved back to Item A, and read the item into the record again.

Cathy Laughlin, City Planner, thanked Council for moving the item down the agenda. She went over the rezone application and the Planning Commission's findings. They sent their recommendation to approve it without conditions. Looking at the correspondence received tonight, his item #1 on the letter (Exhibit "B") states there was improper notice for Public Hearing. The property itself is 60.75 acres. The actual acreage being considered tonight is 66.30 acres. The remaining acreage is half of Errecart Blvd. Number 2, Exhibits A through D1 are the notices that were sent out for the Planning Commission and City Council meeting. Number 3 states there is an adverse effect to the adjoining parcel. It was explained that this was a rezone and had nothing to do with the development of the property. It was also addressed when there was a Conditional Use Permit hearing for this property. This agenda item is for the rezone and not for how it will be developed.

Mayor Keener asked why there was a concern with the hydrology.

Ms. Laughlin explained that he was concerned with drainage being diverted to his property but there are codes to protect his property. Mr. Baily is proposing development on just a portion of that property. When development is discussed, they will address his issues.

Scott Wilkinson, Assistant City Manager, said there is code that addresses all of his issues. He believes the concerns are unfounded, especially since this is a rezone application.

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to adopt Resolution No. 29-19.**

The motion passed unanimously. (3-0)

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**

There were no public comments.

There being no further business, Mayor Reece Keener adjourned the meeting.

Mayor Reece Keener

Kelly Wooldridge, City Clerk

**Elko City Council
Agenda Action Sheet**

1. Title: **Presentation of Integration of potential fire department portable radios into the self contained breathing apparatus worn by fire department personnel. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **PRESENTATION**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko Fire Department has applied for a grant for portable radios and looking to replace them in the next year if grant funding does not happen. These radios integrate into the current self contained breathing apparatus via Bluetooth and will increase firefighter safety and enhance communication between responders and the incident commander.**
6. Budget Information:

Appropriation Required: **\$0**
Budget amount available: **\$ 0**
Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **N/A**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Jack Snyder, Deputy Fire Chief**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the United States Marshal Service, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **CONSENT AGENDA**
4. Time Required: **5 Minutes**
5. Background Information: **The purpose of this MOU is to delineate the responsibilities of the U.S. Marshal Service personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.**

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT
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: **Copy of the MOU agreement between the U.S. Marshal Service and the Elko Police Department.**
9. Recommended Motion: **Approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the U.S. Marshal Service.**
10. Prepared By: **Ty Trouten, Police Chief**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution: **N/A**

**United States Marshals Service
Memorandum of Understanding**

Rev. 10/2019

PARTIES AND AUTHORITY:

This Memorandum of Understanding (MOU) is entered into by the

and the United States Marshals Service (USMS) pursuant to 28 U.S.C. § 566(e)(1)(B). As set forth in the Presidential Threat Protection Act of 2000 and directed by the Attorney General, the USMS has been granted authority to direct and coordinate permanent Regional Fugitive Task Forces consisting of Federal, state, and local law enforcement authorities for the purpose of locating and apprehending fugitives. The authority of the USMS to investigate fugitive matters as directed by the Attorney General is set forth in 28 USC § 566. The Director's authority to direct and supervise all activities of the USMS is set forth in 28 USC § 561(g) and 28 CFR 0.111. The authority of United States Marshals and Deputy U.S. Marshals, "in executing the laws of the United States within a State . . . [to] exercise the same powers which a sheriff of the State may exercise in executing the laws thereof" is set forth in 28 USC § 564. Additional authority is derived from 18 USC § 3053 and Office of Investigative Agency Policies Resolutions 2 & 15. (See also) "Memorandum for Howard M. Shapiro, General Counsel, Federal Bureau of Investigation" concerning the "Authority to Pursue Non-Federal Fugitives", issued by the U.S. Department of Justice, Office of Legal Counsel, dated February 21, 1995. (See also) Memorandum concerning the Authority to Pursue Non-Federal Fugitives, issued by the USMS Office of General Counsel, dated May, 1, 1995. (See also) 42 U.S.C. § 16941(a)(the Attorney General shall use the resources of federal law enforcement, including the United States Marshals Service, to assist jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements).

MISSION: The primary mission of the task force is to investigate and arrest, as part of joint law enforcement operations, persons who have active state and federal warrants for their arrest. The intent of the joint effort is to investigate and apprehend local, state and federal fugitives, thereby improving public safety and reducing violent crime. Each participating agency agrees to refer cases for investigation by the RFTF (Regional Fugitive Task Force) or VOTF (Violent Offender Task Force). Cases will be adopted by the RFTF/VOTF at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy. Targeted crimes will primarily include violent crimes against persons, weapons offenses, felony drug offenses, failure to register as a sex offender, and crimes committed by subjects who have a criminal history involving violent crimes, felony drug offenses, and/or weapons offenses. Upon receipt of a written request, the RFTF/VOTF may also assist non-participating law enforcement agencies in investigating, locating and arresting their fugitives. Task force personnel will be assigned federal, state, and local fugitive cases for investigation. Investigative teams will consist of personnel from different agencies whenever possible. Participating agencies retain responsibility for the cases they refer to the RFTF/VOTF. Federal fugitive cases referred to the task force for investigation by any participating agency will be entered into the National Crime Information Center (NCIC) by the USMS or originating agency, as appropriate. State or local fugitive cases will be entered into NCIC (and other applicable state or local lookout systems) as appropriate by the concerned state or local agency.

SUPERVISION: The RFTF/VOTF will consist of law enforcement and administrative personnel from federal, state, and local law enforcement agencies. Agency personnel must be approved by the RFTF/VOTF Chief Inspector/Chief Deputy prior to assignment to the RFTF/VOTF. Agency personnel may be removed at any time at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy. Direction and coordination of the RFTF/VOTF shall be the responsibility of the USMS RFTF/VOTF Chief Inspector/Chief Deputy. Administrative matters which are internal to the participating agencies remain the responsibility of the respective agencies. Furthermore, each agency retains responsibility for the conduct of its personnel. A Task Force Advisory Committee, consisting of representatives of participating agencies and USMS RFTF/VOTF personnel, may be established at the discretion of the RFTF/VOTF Chief Inspector/Chief Deputy and will meet and confer as necessary to review and address issues concerning operational matters within the RFTF/VOTF.

PERSONNEL: In accordance with Homeland Security Presidential Directive 12, personnel assigned to the task force are required to undergo background investigations in order to be provided unescorted access to USMS offices, records, and computer systems. The USMS shall bear the costs associated with those investigations. Non-USMS law enforcement officers assigned to the task force will be deputized as Special Deputy U.S. Marshals. Task force personnel may be required to travel outside of the jurisdiction to which they are normally assigned in furtherance of task force operations. State or local task force officers (TFOs) traveling on official business at the direction of the USMS shall be reimbursed directly by the USMS for their travel expenses in accordance with applicable federal laws, rules, and regulations.

REIMBURSEMENT: If the Marshals Service receives Asset Forfeiture funding for either 1) overtime incurred by state and local investigators who provide full time support to USMS RFTF/VOTF joint law enforcement task forces; or 2) travel, training, purchase or lease of police vehicles, fuel, supplies or equipment for state and local investigators in direct support of state and local investigators, the USMS shall, pending availability of funds, reimburse your organization for expenses incurred, depending on which

category of funding is provided. Reimbursement of overtime work shall be consistent with the Fair Labor Standards Act. Annual overtime for each state or local law enforcement officer is capped at the equivalent of 25% of a GS-1811-12, Step 1, of the general pay scale for the Rest of United States. Reimbursement for all types of qualified expenses shall be contingent upon availability of funds and the submission of a proper request for reimbursement which shall be submitted quarterly on a fiscal year basis, and which provides the names of the investigators who incurred overtime for the RFTF/VOTF during the quarter; the number of overtime hours incurred, the hourly regular and overtime rates in effect for each investigator, and the total quarterly cost. The request for reimbursement must be submitted to the RFTF/VOTF Chief Inspector/Chief Deputy, who will review the request for reimbursement, stamp and sign indicating that services were received and that the request for reimbursement is approved for payment. Supporting documentation must accompany requests for reimbursement for equipment, supplies, training, fuel, and vehicle leases.

VEHICLES: Pending the availability of asset forfeiture funding, the USMS may acquire vehicles to be utilized by state and local investigators assigned to the RFTF/VOTF. Vehicles provided by the USMS remain in the control of the USMS and must be used solely in support of RFTF/VOTF operations. The vehicles must be available for exclusive use of the TFOs assigned to the RFTF/VOTF by the undersigned participant agency for the duration of the agency's participation on the task force. If the agency is no longer a participating member of the RFTF/VOTF, any USMS vehicle provided to the agency for use by TFO(s) must be returned to the USMS. Operators of USMS-provided vehicles must adhere to USMS policy regarding the use of government owned vehicles. Any violation of the USMS vehicle policy may result in the vehicle being repossessed by the USMS and the operator and/or agency forfeiting the opportunity to utilize a USMS-provided vehicle in the future. Vehicles provided to state and local investigators may be subject to additional regulations or restrictions pursuant to USMS lease agreements. Replacement or removal of any vehicle provided by the USMS will be at the discretion of the USMS and/or subject to lease agreement terms.

EQUIPMENT: Pending the availability of Asset Forfeiture funding, the USMS may purchase equipment for state and local investigators assigned to the RFTF/VOTF. Equipment purchased by the USMS using Asset Forfeiture funding must be used solely in support of RFTF/VOTF operations. The equipment must be available for exclusive use of the TFOs assigned to the RFTF/VOTF by the undersigned participant agency for the duration of the agency's participation on the task force. If the agency is no longer a participating member of the RFTF/VOTF, any equipment purchased with Asset Forfeiture and provided to TFOs from the agency may be retained by the agency. Equipment provided by the USMS that is not purchased using Asset Forfeiture funding remains the property of the USMS and will be issued to state and local investigators for exclusive use in support of the RFTF/VOTF. If the investigator or agency is no longer a participating member of the RFTF/VOTF, any equipment issued that was not purchased with Asset Forfeiture funding will be returned to the USMS.

RECORDS AND REPORTS: After the RFTF/VOTF has adopted a warrant, all investigative reports, evidence, and other materials generated, seized or collected by the RFTF/VOTF, relating to the fugitive investigation, shall be material within the custody and control of the RFTF/VOTF. Physical evidence, such as drugs, firearms, counterfeit credit cards, and related items may be released to the appropriate prosecuting agency. Records and information obtained during the RFTF/VOTF fugitive investigation are not evidence and may not be released. A participating agency may retain copies of RFTF/VOTF investigative reports, and other documents or materials, but they may be released only upon approval of the USMS Office of General Counsel, in consultation with the local U.S. Attorney's Office, if and as applicable.

All investigative reporting will be prepared in compliance with existing USMS policy and procedures utilizing USMS case management systems. Every effort should be made to document investigative activities on USMS forms, such as USM-11s and USM-210s. Reports should never contain information related to sensitive USMS programs that are deemed privileged and not subject to reporting. RFTF/VOTF records and documents, including reports on RFTF/VOTF activity prepared in cases assigned to TFOs, will be maintained in USMS electronic records. Task force statistics will be maintained in the USMS case management systems. Statistics will be made available to any participating agency upon request. This section does not preclude the necessity of individual TFOs completing forms required by their employing agency. However, reports documenting task force related investigations or activities prepared by a TFO on their parent agency form and any TFO's task force related email or text exchanges are deemed federal records under the control and purview of USMS, regardless of where these records are generated or kept. If information developed during a RFTF/VOTF investigation is included in such a form, the TFO's department will maintain the information as an agent of the RFTF/VOTF. No information related to RFTF/VOTF activities may be disseminated at any time to any third party (including a non-task force law enforcement officer, other law enforcement agency, or prosecutor's office) by any task force member without the express permission of the RFTF/VOTF Chief Inspector/Chief Deputy or his/her designee, in consultation with USMS Office of General Counsel where appropriate. This prohibition applies to formal and informal communications, as well as reports, memoranda, or other records compiled during the course of RFTF/VOTF operations. Documents containing information that identifies, or tends to identify, a USMS confidential source, a USMS sensitive program, or the use of sensitive equipment/techniques shall not be released outside of the USMS unless approved by the Office of General Counsel.

CONFIDENTIAL SOURCES / CONFIDENTIAL INFORMANTS: Pending the availability of funds, the USMS may provide funding for payment of Confidential Sources (CS) or Confidential Informants (CI). The use of CS/CIs, registration of CS/CIs and all payments to CS/CIs shall comply with USMS policy. USMS payment to an individual providing information or "tip" related to a USMS offered reward on an active fugitive case shall be accomplished by registering the individual or "tipster" through the

established USMS CS payment process.

USE OF FORCE: All members of the RFTF/VOTF will comply with their agencies' guidelines concerning the use of firearms, deadly force, and less-than lethal devices, to include completing all necessary training and certification requirements. All members of the RFTF/VOTF will read and adhere to the DOJ Policy Statement on the Use of Less-Than-Lethal Devices, dated May 16, 2011, and their parent agencies will review the Policy Statement to assure that they approve. Copies of all applicable firearms, deadly force, and less-than-lethal policies shall be provided to the RFTF/VOTF Chief Inspector Chief Deputy and each concerned TFO. In the event of a shooting involving task force personnel, the incident will be investigated by the appropriate agency(s). Additionally, in the event of a shooting, the required reporting for the FBI National Use of Force Data Collection (NUOFDC) should be accomplished by the involved task force personnel's employing agency when the TFO is inside their primary physical jurisdiction and by the USMS when the TFO is outside their employing agency's primary physical jurisdiction. If the employing agency wishes to submit such NUOFDC entries regardless of the physical location of the event, that is allowed under this MOU with prior written notice to the USMS.

NEWS MEDIA: Media inquiries will be referred to the RFTF/VOTF Chief Inspector Chief Deputy. A press release may be issued and press conference held, upon agreement and through coordination with participant agencies' representatives. All press releases will exclusively make reference to the task force and participant agencies.

RELEASE OF LIABILITY: Each agency shall be responsible for the acts or omissions of its employees. Participating agencies or their employees shall not be considered as the agents of any other participating agency. Nothing herein waives, limits, or modifies any party's sovereign rights or immunities under applicable law.

EFFECTIVE DATE AND TERMINATION: This MOU is in effect once signed by a law enforcement participant agency. Participating agencies may withdraw their participation after providing 30 days advanced written notice to the RFTF/VOTF Chief Inspector/Chief Deputy.

Task Force: _____

UNITED STATES MARSHAL or RFTF COMMANDER:

Print Name: _____

Signature: _____

Date: _____

PARTICIPANT AGENCY:

Name: Eliz Police Department

Phone: 775 777-7310

Location (City and State): Eliz, Nevada

PARTICIPANT AGENCY REPRESENTATIVE(S):

Print Name and Title: Ty Trotter Police Chief

Signature: _____

Date: _____

ASSISTANT DIRECTOR, INVESTIGATIVE OPERATIONS DIVISION:

Print Name: Jeff Tyler

Signature: _____

Date: _____

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation, Northern Nevada Safe Streets Task Force (SSTF) for operational support, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **CONSENT AGENDA**
4. Time Required: **5 Minutes**
5. Background Information: **The purpose of this MOU is to delineate the responsibilities of the Federal Bureau of Investigation Northern Nevada SSTF; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation.**

The Elko Police Department would be entering into this agreement and providing officers for this task force on an as needed basis. The City Attorney has reviewed the agreement and has found it satisfactory. There is no financial burden to the City of Elko. TT
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: **Copy of the MOU agreement between the FBI, Northern Nevada Safe Streets Task Force and the Elko Police Department.**
9. Recommended Motion: **Approval for the Elko Police Department to enter into a Memorandum of Understanding (MOU) with the Federal Bureau of Investigation, Northern Nevada Safe Streets Task Force**
10. Prepared By: **Ty Trouten, Police Chief**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution: **N/A**

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**FEDERAL BUREAU OF INVESTIGATION
NORTHERN NEVADA SAFE STREETS TASK FORCE
MEMORANDUM OF UNDERSTANDING**

PARTIES

1. This Memorandum of Understanding (MOU) is entered into by and between the **Federal Bureau of Investigation (FBI)** and the **Elko Police Department** (participating agency) (collectively: the Parties). Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation which exists between these agencies.

AUTHORITIES

2. Authority for the FBI to enter into this agreement can be found at Title 28, United States Code (U.S.C.), Section (§) 533; 42 U.S.C. § 3771; Title 28, Code of Federal Regulations (C.F.R.), § 0.85; and applicable United States Attorney General's Guidelines.

PURPOSE

3. The purpose of this MOU is to delineate the responsibilities of the Northern Nevada Safe Streets Task Force (SSTF) personnel; formalize relationships between participating agencies for policy guidance, planning, training, public and media relations; and maximize inter-agency cooperation. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, the United States, or the officers, employees, agents, or other associated personnel thereof.

MISSION

4. The mission of the SSTF is to identify and target for prosecution criminal enterprise groups responsible for drug trafficking, money laundering, alien smuggling, crimes of violence such as murder and aggravated assault, robbery, and violent street gangs, as well as to intensely focus on the apprehension of dangerous fugitives where there is or may be a federal investigative interest. The SSTF will enhance the effectiveness of federal/state/local law enforcement resources through a well-coordinated initiative seeking the most effective investigative/prosecutive avenues by which to convict and incarcerate dangerous offenders.

SUPERVISION AND CONTROL

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A. Supervision

5. Overall management of the SSTF shall be the shared responsibility of the FBI and participating agency heads and/or their designees.
6. The Special Agent in Charge (SAC) of the FBI Las Vegas Division shall designate one Supervisory Special Agent (SSTF Supervisor) to supervise the SSTF. The SSTF Supervisor may designate a Special Agent to serve as the SSTF Coordinator. Either the SSTF Supervisor or the SSTF Coordinator shall oversee day-to-day operational and investigative matters pertaining to the SSTF.
7. Conduct undertaken outside the scope of an individual's SSTF duties and assignments under this MOU shall not fall within the oversight responsibility of the SSTF Supervisor or SSTF Coordinator. As stated in paragraph 76, below, neither the United States nor the FBI shall be responsible for such conduct.
8. SSTF personnel will report to his or her respective agency for personnel and administrative matters. Each participating agency shall be responsible for the pay, overtime, leave, performance appraisals, and other personnel matters relating to its employees detailed to the SSTF. The FBI and the participating agency may provide for overtime reimbursement by the FBI by separate written agreement.
9. All FBI personnel will adhere to the FBI's ethical standards, including Department of Justice (DOJ)/FBI regulations relating to outside employment and prepublication review matters, and will remain subject to the Supplemental Standards of Ethical conduct for employees of the DOJ.
10. All SSTF personnel, which includes Task Force Officers, Task Force Members, and Task Force Participants, must adhere to the applicable U.S. Attorney General's Guidelines and Domestic Operations Investigative Guidelines (DIOG).
11. SSTF personnel will continue to report to their respective agency heads for non-investigative administrative matters not detailed in this MOU.
12. Continued assignment of personnel to the SSTF will be based on performance and at the discretion of appropriate management. The FBI SAC and SSTF Supervisor will also retain discretion to remove any individual from the SSTF.

B. Case Assignments

13. The FBI SSTF Supervisor will be responsible for opening, monitoring, directing, and closing SSTF investigations in accordance with existing FBI policy and the applicable U.S. Attorney General's Guidelines.

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14. Assignments of cases to personnel will be based on, but not limited to, experience, training, and performance, in addition to the discretion of the SSTF Supervisor.
15. For FBI administrative purposes, SSTF cases will be entered into the relevant FBI computer system.
16. SSTF personnel will have equal responsibility for each case assigned. SSTF personnel will be responsible for complete investigation from predication to resolution.

C. Resource Control

17. The head of each participating agency shall determine the resources to be dedicated by that agency to the SSTF, including personnel, as well as the continued dedication of those resources. The participating agency head or designee shall be kept fully apprised of all investigative developments by his or her subordinates.

OPERATIONS

A. Investigative Exclusivity

18. It is agreed that matters designated to be handled by the SSTF will not knowingly be subject to non-SSTF law enforcement efforts by any of the participating agencies. It is incumbent on each agency to make proper internal notification regarding the SSTF's existence and areas of concern.
19. It is agreed that there is to be no unilateral action taken on the part of the FBI or any participating agency relating to SSTF investigations or areas of concern as described in paragraph 3. All law enforcement actions will be coordinated and cooperatively carried out.
20. SSTF investigative leads outside of the geographic areas of responsibility for the FBI Las Vegas Division will be communicated to other FBI offices for appropriate investigation.

B. Confidential Human Sources

21. The disclosure of FBI informants, or Confidential Human Sources (CHSs), to non-SSTF personnel will be limited to those situations where it is essential to the effective performance of the SSTF. These disclosures will be consistent with applicable FBI guidelines.
22. Non-FBI SSTF personnel may not make any further disclosure of the identity of an FBI CHS, including to other individuals assigned to the SSTF. No documents which identify, tend to identify, or may indirectly identify an FBI CHS may be released without prior FBI approval.

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23. In those instances where a participating agency provides a CHS, the FBI may become solely responsible for the CHS's continued development, operation, and compliance with necessary administrative procedures regarding operation and payment as set forth by the FBI.
24. The U.S. Attorney General's Guidelines and FBI policy and procedure for operating FBI CHSs shall apply to all FBI CHSs opened and operated in furtherance of SSTF investigations. Documentation of, and any payments made to, FBI CHSs shall be in accordance with FBI policy and procedure.
25. Operation, documentation, and payment of any CHS opened and operated in furtherance of an SSTF investigation must be in accordance with the U.S. Attorney General's Guidelines, regardless of whether the handling agency is an FBI SSTF participating agency. Documentation of state, county, or local CHSs opened and operated in furtherance of SSTF investigations shall be maintained at an agreed upon location.

C. Reports and Records

26. All investigative reporting will be prepared in compliance with existing FBI policy. Subject to pertinent legal and/or policy restrictions, copies of pertinent documents created by SSTF personnel will be made available for inclusion in the respective investigative agencies' files as appropriate.
27. SSTF reports prepared in cases assigned to SSTF personnel will be maintained at an FBI approved location; original documents will be maintained by the FBI.
28. Records and reports generated in SSTF cases which are opened and assigned by the SSTF Supervisor with designated oversight for investigative and personnel matters will be maintained in the FBI investigative file for SSTF.
29. SSTF investigative records maintained at the Las Vegas Field Office of the FBI will be available to all SSTF personnel, as well as their supervisory and command staff subject to pertinent legal, administrative and/or policy restrictions.
30. All evidence and original tape recordings (audio and video) acquired by the FBI during the course of the SSTF investigations will be maintained by the FBI. The FBI's rules and policies governing the submission, retrieval, and chain of custody will be adhered to by SSTF personnel.
31. All SSTF investigative records will be maintained at an approved FBI location. Placement of all or part of said information into participating agency files rests with the discretion of supervisory personnel of the concerned agencies, subject to SSTF Supervisor approval.

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32. Classified information and/or documents containing information that identifies or tends to identify an FBI CHS shall not be placed in the files of participating agencies unless appropriate FBI policy has been satisfied.
33. The Parties acknowledge that this MOU may provide SSTF personnel with access to information about U.S. persons which is protected by the Privacy Act of 1974 and/or Executive Order 12333. The Parties expressly agree that all such information will be handled lawfully pursuant to the provisions thereof. The Parties further agree that if this access to information by SSTF personnel requires a change in privacy compliance documents, those changes will be accomplished prior to access being granted.

INFORMATION SHARING

34. No information possessed by the FBI, to include information derived from informal communications between SSTF personnel and FBI employees not assigned to the SSTF, may be disseminated by SSTF personnel to non-SSTF personnel without the approval of the SSTF Supervisor and in accordance with the applicable laws and internal regulations, procedures or agreements between the FBI and the participating agencies that would permit the participating agencies to receive that information directly. Likewise, SSTF personnel will not provide any participating agency information to the FBI that is not otherwise available to it unless authorized by appropriate participating agency officials.
35. Each Party that discloses PII is responsible for making reasonable efforts to ensure that the information disclosed is accurate, complete, timely, and relevant.
36. The FBI is providing access to information from its records with the understanding that in the event the recipient becomes aware of any inaccuracies in the data, the recipient will promptly notify the FBI so that corrective action can be taken. Similarly, if the FBI becomes aware that information it has received pursuant to this MOU is inaccurate, it will notify the contributing Party so that corrective action can be taken.
37. Each Party is responsible for ensuring that information it discloses was not knowingly obtained or maintained in violation of any law or policy applicable to the disclosing Party, and that information is only made available to the receiving Party as may be permitted by laws, regulations, policies, or procedures applicable to the disclosing Party.
38. Each Party will immediately report to the other Party each instance in which data received from the other Party is used, disclosed, or accessed in an unauthorized manner (including any data losses or breaches).
39. The Parties agree that either or both may audit the handling and maintenance of data in electronic and paper recordkeeping systems to ensure that appropriate security and privacy protections are in place.

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PROSECUTIONS

40. SSTF investigative procedures, whenever practicable, are to conform to the requirements which would allow for either federal or state prosecution.
41. A determination will be made on a case-by-case basis whether the prosecution of SSTF cases will be at the state or federal level. This determination will be based on the evidence obtained and a consideration of which level of prosecution would be of the greatest benefit to the overall objectives of the SSTF.
42. In the event that a state or local matter is developed that is outside the jurisdiction of the FBI or it is decided to prosecute a SSTF case at the state or local level, the FBI agrees to provide all relevant information to state and local authorities in accordance with all applicable legal limitations.

A. Investigative Methods/Evidence

43. For cases assigned to an FBI Special Agent or in which FBI CHSs are utilized, the Parties agree to conform to federal standards concerning evidence collection, processing, storage, and electronic surveillance. However, in situations where the investigation will be prosecuted in the State Court where statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by FBI case agents shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.
44. In all cases assigned to state, county, or local law enforcement participants, the Parties agree to utilize federal standards pertaining to evidence handling and electronic surveillance activities as outlined in the DIOG to the greatest extent possible. However, in situations where the statutory or common law of the state is more restrictive than the comparable federal law, the investigative methods employed by state and local law enforcement agencies shall conform to the requirements of such statutory or common law pending a decision as to venue for prosecution.
45. The use of other investigative methods (search warrants, interceptions of oral communications, etc.) and reporting procedures in connection therewith will be consistent with the policies and procedures of the FBI.

B. Undercover Operations

46. All SSTF undercover operations will be conducted and reviewed in accordance with FBI guidelines and the U.S. Attorney General's Guidelines on FBI Undercover Operations. All participating agencies may be requested to enter into an additional agreement if an employee of the participating agency is assigned duties which require the officer to act in an undercover capacity.

USE OF LESS-THAN-LETHAL-DEVICES¹

47. The parent agency of each individual assigned to the SSTF will ensure that while the individual is participating in FBI-led task force operations in the capacity of a task force officer, task force member, or task force participant, the individual will carry only less-lethal devices that the parent agency has issued to the individual, and that the individual has been trained in accordance with the agency's policies and procedures.
48. The parent agency of each individual assigned to the SSTF will ensure that the agency's policies and procedures for use of any less-lethal device that will be carried by the task force officer, task force member, or task force participant are consistent with the DOJ policy statement on the Use of Less-Than-Lethal Devices.²

DEADLY FORCE AND SHOOTING INCIDENT POLICIES

49. SSTF personnel will follow their own agencies' policies concerning firearms discharge and use of deadly force.

DEPUTATIONS

50. Local and state law enforcement personnel designated to the SSTF, subject to a limited background inquiry, shall be sworn as federal task force officers either by acquiring Title 21 or Title 18 authority (via the United States Marshals), with the FBI securing the required deputation authorization. These deputations should remain in effect throughout the tenure of each investigator's assignment to the SSTF or until the termination of the SSTF, whichever comes first.
51. Deputized SSTF personnel will be subject to the rules and regulations pertaining to such deputation. Administrative and personnel policies imposed by the participating agencies will not be voided by deputation of their respective personnel.

¹ Pursuant to Section VIII of the DOJ Less-Than-Lethal Devices Policy dated May 16, 2011, all state/local officers participating in joint task force operations must be made aware of and adhere to the policy and its limits on DOJ officers.

² Less-lethal – When use of force is required, but deadly force may not be appropriate, law enforcement officers may employ less-lethal weapons to gain control of a subject. Less-lethal weapons are designed to induce a subject to submit or comply with directions. These weapons give law enforcement officers the ability to protect the safety of officers, subjects, and the public by temporarily incapacitating subjects. While less-lethal weapons are intended to avoid causing any serious harm or injury to a subject, significant injuries and death can occur from their use.

The term "less-than-lethal" is synonymous with "less-lethal", "non-lethal", "non-deadly", and other terms referring to devices used in situations covered by the DOJ Policy on the Use of Less-Than-Lethal Devices. "Less-lethal" is the industry standard and the terminology the FBI has elected to utilize in reference to this policy.

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VEHICLES

52. In furtherance of this MOU, employees of participating agencies may be permitted to drive FBI owned or leased vehicles for official SSTF business and only in accordance with applicable FBI rules and regulations, including those outlined in the FBI Government Vehicle Policy Directive (0430D) and the Government Vehicle Policy Implementation Guide (0430PG). The assignment of an FBI owned or leased vehicle to participating agency SSTF personnel will require the execution of a separate Vehicle Use Agreement.
53. The participating agencies agree that FBI vehicles will not be used to transport passengers unrelated to SSTF business.
54. The FBI and the United States will not be responsible for any tortious act or omission on the part of each participating agency and/or its employees or for any liability resulting from the use of an FBI owned or leased vehicle utilized by participating agency SSTF personnel, except where liability may fall under the provisions of the Federal Tort Claims Act (FTCA), as discussed in the Liability Section herein below.
55. The FBI and the United States shall not be responsible for any civil liability arising from the use of an FBI owned or leased vehicle by participating agency SSTF personnel while engaged in any conduct other than their official duties and assignments under this MOU.
56. To the extent permitted by applicable law, the participating agencies agree to hold harmless the FBI and the United States, for any claim for property damage or personal injury arising from any use of an FBI owned or leased vehicle by participating agency SSTF personnel which is outside the scope of their official duties and assignments under this MOU.

SALARY/OVERTIME COMPENSATION

57. The FBI and each participating agency remain responsible for all personnel costs for their SSTF representatives, including salaries, overtime payments, and fringe benefits consistent with their respective agency, except as described in paragraph 58 below.
58. Subject to funding availability and legislative authorization, the FBI will reimburse to participating agencies the cost of overtime worked by non-federal SSTF personnel assigned full-time to SSTF, provided overtime expenses were incurred as a result of SSTF-related duties, and subject to the provisions and limitations set forth in a separate Cost Reimbursement Agreement to be executed in conjunction with this MOU. A separate Cost Reimbursement Agreement must be executed between the FBI and participating agencies for full-time employee(s) assigned to SSTF, consistent with regulations and policy, prior to any reimbursement by the FBI. Otherwise, overtime shall be compensated in accordance with applicable participating agency overtime provisions and shall be subject to the prior approval of appropriate personnel.

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PROPERTY AND EQUIPMENT

59. Property utilized by the SSTF in connection with authorized investigations and/or operations and in the custody and control and used at the direction of the SSTF, will be maintained in accordance with the policies and procedures of the agency supplying the equipment. Property damaged or destroyed which was utilized by SSTF in connection with authorized investigations and/or operations and is in the custody and control and used at the direction of SSTF, will be the financial responsibility of the agency supplying said property.

FUNDING

60. This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the Parties hereto of the tasks and methods for performing the tasks described herein. Unless otherwise agreed in writing, each Party shall bear its own costs in relation to this MOU. Expenditures by each Party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The Parties expressly acknowledge that the above language in no way implies that Congress will appropriate funds for such expenditures.

FORFEITURES

61. The FBI shall be responsible for processing assets seized for federal forfeiture in conjunction with SSTF operations.
62. Asset forfeitures will be conducted in accordance with federal law and the rules and regulations set forth by the FBI and DOJ. Forfeitures attributable to SSTF investigations may be equitably shared with the agencies participating in the SSTF.

DISPUTE RESOLUTION

63. In cases of overlapping jurisdiction, the participating agencies agree to work in concert to achieve the SSTF's objectives.
64. The participating agencies agree to attempt to resolve any disputes regarding jurisdiction, case assignments, workload, etc., at the field level first before referring the matter to supervisory personnel for resolution.

MEDIA RELEASES

65. All media releases and statements will be mutually agreed upon and jointly handled according to FBI and participating agency guidelines.

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66. Press releases will conform to DOJ Guidelines regarding press releases. No release will be issued without FBI final approval.

SELECTION TO SSTF AND SECURITY CLEARANCES

67. If a participating agency candidate for the SSTF will require a security clearance, he or she will be contacted by FBI security personnel to begin the background investigation process prior to the assigned start date.
68. If, for any reason, the FBI determines that a participating agency candidate is not qualified or eligible to serve on the SSTF, the participating agency will be so advised and a request will be made for another candidate.
69. Upon being selected, each candidate will receive a comprehensive briefing on FBI field office security policies and procedures. During the briefing, each candidate will execute non-disclosure agreements (SF-312 and FD-868), as may be necessary or required by the FBI.
70. Before receiving unescorted access to FBI space identified as an open storage facility, SSTF personnel will be required to obtain and maintain a "Top Secret" security clearance. SSTF personnel will not be allowed unescorted access to FBI space unless they have received a Top Secret security clearance.
71. Upon departure from the SSTF, each individual whose assignment to the SSTF is completed will be given a security debriefing and reminded of the provisions contained in the non-disclosure agreement to which he or she previously agreed.

LIABILITY

72. The Parties acknowledge that this MOU does not alter the applicable law governing civil liability, if any, arising from the conduct of personnel assigned to the SSTF.
73. Each participating agency shall immediately notify the FBI of any civil, administrative, or criminal claim, complaint, discovery request, or other request for information of which the agency receives notice, concerning or arising from the conduct of personnel assigned to the SSTF or otherwise relating to the SSTF. Each participating agency acknowledges that financial and civil liability, if any and in accordance with applicable law, for the acts and omissions of each employee detailed to the SSTF remains vested with his or her employing agency. In the event that a civil claim or complaint is brought against a state or local officer assigned to the SSTF, the officer may request legal representation and/or defense by DOJ, under the circumstances and pursuant to the statutes and regulations identified below.

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74. For the limited purpose of defending against a civil claim arising from alleged negligent or wrongful conduct under common law under the FTCA, 28 U.S.C. § 1346(b) and §§ 2671-2680: an individual assigned to the SSTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request to be certified by the U.S. Attorney General or his designee as having acted within the scope of federal employment at the time of the incident giving rise to the suit. 28 U.S.C. § 2679(d)(2). Upon such certification, the individual will be considered an "employee" of the United States government for the limited purpose of defending the civil claim under the FTCA, and the claim will proceed against the United States as sole defendant. 28 U.S.C. § 2679(d)(2). Once an individual is certified as an employee of the United States for purposes of the FTCA, the United States is substituted for the employee as the sole defendant with respect to any tort claims. Decisions regarding certification of employment under the FTCA are made on a case-by-case basis, and the FBI cannot guarantee such certification to any SSTF personnel.
75. For the limited purpose of defending against a civil claim arising from an alleged violation of the U.S. Constitution pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971): an individual assigned to the SSTF who is named as a defendant in a civil action as a result of or in connection with the performance of his or her official duties and assignments pursuant to this MOU may request individual-capacity representation by DOJ to defend against the claims. 28 C.F.R. §§ 50.15, 50.16. Any such request for individual-capacity representation must be made in the form of a letter from the individual defendant to the U.S. Attorney General. The letter should be provided to Chief Division Counsel (CDC) for the FBI Las Vegas Division, who will then coordinate the request with the FBI Office of the General Counsel. In the event of an adverse judgment against the individual, he or she may request indemnification from DOJ. 28 C.F.R. § 50.15(c)(4). Requests for DOJ representation and indemnification are determined by DOJ on a case-by-case basis. The FBI cannot guarantee the United States will provide legal representation or indemnification to any SSTF personnel.
76. Liability for any conduct by SSTF personnel undertaken outside of the scope of their assigned duties and responsibilities under this MOU shall not be the responsibility of the FBI or the United States and shall be the sole responsibility of the respective employee and/or agency involved.

DURATION

77. The term of this MOU is for the duration of the SSTF's operations, contingent upon approval of necessary funding, but may be terminated at any time upon written mutual consent of the agency involved.

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78. Any participating agency may withdraw from the SSTF at any time by written notification to the SSTF Supervisor with designated oversight for investigative and personnel matters or program manager of the SSTF at least 30 days prior to withdrawal.
79. Upon termination of this MOU, all equipment provided to the SSTF will be returned to the supplying agency/agencies. In addition, when an entity withdraws from the MOU, the entity will return equipment to the supplying agency/agencies. Similarly, remaining agencies will return to a withdrawing agency any unexpended equipment supplied by the withdrawing agency during any SSTF participation.

MODIFICATIONS

80. This agreement may be modified at any time by written consent of all involved agencies.

Modifications to this MOU shall have no force and effect unless such modifications are reduced to writing and signed by an authorized representative of each participating agency.

SIGNATORIES

Special Agent in Charge
Federal Bureau of Investigation

Date

Chief
Elko Police Department

Date

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**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications Incorporated for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **The proposed term of the agreement is 10 (ten) years and provides for a 5 (five) year renewal provided the terms and conditions remain the same. The proposed franchise fee is 5 (five) percent of the gross revenues actually collected from customers located within the corporate limits of the City. CL**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **None**
9. Recommended Motion: **Move to approve a Non-Exclusive Franchise Agreement between the City of Elko and White Cloud Communications Incorporated for Data Communications Over, Under, In, Along and Across Public Roads in the City of Elko**
10. Prepared By: **Scott A. Wilkinson, City of Elko Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Agenda Distribution: **Dave Skinner**
 dskinner@whitecloudcom.com

**NONEXCLUSIVE FRANCHISE AGREEMENT
FOR PURPOSE OF CONVEYING DATA COMMUNICATIONS OVER, UNDER, IN,
ALONG AND ACROSS PUBLIC ROADS OF THE CITY**

Between

THE CITY OF ELKO, NEVADA

and

**WHITE CLOUD COMMUNICATIONS INCORPORATED
an Idaho Corporation**

_____, 2019

**FRANCHISE AGREEMENT BETWEEN THE CITY OF ELKO AND LEVEL 3
COMMUNICATIONS, LLC ("GRANTEE"), A DELAWARE LIMITED LIABILITY
COMPANY**

THIS FRANCHISE AGREEMENT (hereinafter "Agreement") is entered into as of the _____ day of _____, 2019 (hereinafter the "Effective Date"), by and between the City of Elko, Nevada, a municipal corporation and political subdivision of the State of Nevada (hereinafter the "City"), and White Cloud Communications Incorporated, an Idaho Corporation, with offices at 633 Main Avenue East, Twin Falls, Idaho 83301 (hereinafter the "Grantee").

WITNESSETH:

WHEREAS, the Grantee desires 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, in the exercise of its management of public rights-of-way, believes that it is in the best interest of the public to provide the Grantee a nonexclusive franchise to install, operate, repair, remove, replace, and maintain a Telecommunication Services Network in the City;

WHEREAS, the City and Grantee have negotiated an arrangement whereby the Grantee may provide its Telecommunication Services within the City pursuant to the terms and conditions outlined in this Agreement, in accordance with NRS 268.088, which provides that the City shall not impose any terms or conditions on a franchise for the provision of telecommunication service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines; and

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:

**ARTICLE 1
FRANCHISE**

1.1 Franchise. Upon approval by the City Council and execution by the parties, this Agreement shall be deemed to constitute a contract by and between the City and the Grantee pursuant to which the Grantee is authorized and granted a special privilege to utilize public property in the manner and subject to the terms and conditions described herein.

1.2 Grant of Franchise. The Telecommunication Services Franchise ("Franchise") granted hereunder shall, subject to the terms and conditions of this Agreement, confer upon the Grantee the nonexclusive authorization and special privilege to install, operate, repair, maintain,

remove, upgrade, and replace its Telecommunication Services Network on, over, and under the present and future City-owned utility easements, streets, roads and public rights-of-way within the political boundaries of the City (hereinafter collectively referred to as the "City's Rights-of-Way") in order to provide Telecommunication Services.

1.3 Encroachment. Grantee shall only encroach in and on the City's Rights-of-Way and other City-owned property in accordance with this Agreement and shall independently obtain all permissions necessary to encroach on other property, to include privately-owned property within the City.

ARTICLE 2 CONSIDERATION

2.1 Franchise Fee. For and in consideration of the Franchise granted hereunder, the Grantee agrees to pay to the City 5% of Grantee's gross revenues actually collected from customers located within the corporate limits of the City (the "Franchise Fee"). Such gross revenues shall exclude: (1) long distance access charges; (2) emergency 911 fees and surcharges; (3) equipment and other non-tariffed items which may be provided to the customers; and (4) any other franchise fees, permit fees, business fees, or taxes payable by the Grantee by reason of its engaging in the business of furnishing Telecommunication Services in the City. Such payments shall be made quarterly, within sixty (60) days after the expiration of each calendar quarter or portion thereof, during which the Franchise granted hereunder is in effect. The Franchise Fee shall be calculated based on revenues, as detailed above, generated by Grantee during the applicable quarter of the calendar year. The Grantee shall not be required to provide a performance bond, deposit, or other financial security in return for the Franchise granted herein.

Nothing in this Agreement shall relieve the Grantee of the obligation to obtain such City business and other licenses and permits as are then required for the furnishing, sale or distribution of fiber optic services or otherwise conducting activities within the City; provided, however, the amount of annual gross receipts or revenues used to calculate the Franchise Fee shall be reduced by the amount of the annual business license or permit fee paid by the Grantee to the City for engaging in the business of the furnishing, sale or distribution of fiber optic services to the inhabitants of the City and if in any year the business license or permit fee shall exceed the said business license or permit fee, the Franchise Fee shall not be payable to the City for that year. This paragraph shall not be interpreted as a waiver of Grantee's right to challenge a City licensing or permitting requirement through the appropriate legal process.

2.2 Records and Reports.

The City shall have access at all reasonable hours to the Grantee's books, records, reports, contracts and bookkeeping and accounting procedures to the extent reasonably necessary to calculate or substantiate the amount of the Franchise Fee or to otherwise verify compliance with this Agreement, except as otherwise limited by any applicable privacy laws, including but not limited to 47 U.S.C. § 222. In addition to the foregoing, the Grantee shall, within thirty (30) days of the end of each year of the Term, file both an annual summary report showing gross revenues received by the Grantee from its operations in the City during the preceding twelve (12) month period and such other information as the City shall reasonably request with respect to the Grantee's

use of the public roads and other public property within the City. Notwithstanding the foregoing, the City shall maintain the confidentiality of all records and reports obtained from the Grantee pursuant to this Section 2.2, unless disclosure is required pursuant to the Nevada Public Records law or otherwise by operation of law.

2.3 Equal Treatment. City agrees that if any service forming part of the base for calculating the Franchise Fee under this Agreement is, or becomes, subject to competition from a third party, the City will either impose and collect from such third party a fee or tax, if any, in the same manner and amount as specified herein, plus any other fee or tax charged in this Agreement, or waive collection of the Franchise Fee and any other fee or tax specified herein that are subject to such competition.

ARTICLE 3 TERM AND RENEWAL

3.1 Term and Renewal. The Franchise granted to Grantee shall be for a period of ten (10) years, commencing on the Effective Date; the foregoing period or any extension thereof is herein referred to as the "Term." At the end of the initial ten (10) year Term, the Franchise granted herein may be renewed by the Grantee upon the same terms and conditions as are contained in this Agreement for an additional five (5) year period by providing to the City's representative designated herein written notice of the Grantee's intent to renew not less than one hundred fifty (150) calendar days before the expiration of the initial ten (10) period.

3.2 Rights of Grantee Upon Expiration or Revocation. Upon expiration of the Franchise granted herein, whether by lapse of time, by agreement between the Grantee and the City, or by revocation or forfeiture, the Grantee shall have the right to remove from the City's Rights-of-Way any and all of its Telecommunication Services Network, but in such event, it shall be the duty of the Grantee, immediately upon such removal, to restore the City's Rights-of-Way from which such Telecommunication Services Network was removed to as good a condition as the same was in before the removal was effected, normal wear and tear excepted.

Alternatively, upon expiration of the Franchise granted herein, whether by lapse of time, by agreement between the Grantee and the City, or by revocation or forfeiture, the Grantee shall have the right to abandon in place any or all of its Telecommunication Services Network in its sole, reasonable discretion. Thereafter, the Grantee shall cede good title to any or all of its Telecommunication Services Network abandoned in place to the City by way of bill of sale and quit claim deed, with no express or implied warranties whatsoever, including those of merchantability, condition, quality, or fitness for a particular purpose.

ARTICLE 4 USE AND RELOCATION OF FACILITIES UPON CITY'S RIGHTS-OF-WAY

4.1 Franchise Rights to Use the Public Right-of-Way.

(a) The Grantee shall have the right to use the City's Rights-of-Way within the City to construct and maintain its Telecommunication Services Network subject to the conditions set forth in this Agreement.

(b) In addition, Grantee shall have the right to utilize any easements across private property granted to the City for public utility purposes (unless otherwise limited by the easement deed or by contract), provided the City's written permission, which shall be reasonably provided, is obtained in each case. Grantee specifically understands and acknowledges that certain City easements and rights-of-way may be prescriptive in nature, and that nothing in this Franchise extends permission to use an easement or right-of-way beyond the scope of the right that the City has acquired, and Grantee's right to use such easements and rights-of-way shall be subject to any applicable third party prior or after-acquired interests.

(c) All work performed by Grantee in the City's Rights-of-Way shall be done in compliance with the City's most recent standards and specifications and in accordance with all applicable permit requirements, all of which shall not conflict with the terms and conditions of this Agreement or NRS 268.088. The Telecommunication Services Network shall further be installed, constructed and maintained in accordance with Section 8-18-3 of the Elko City Code and any applicable Federal and state laws, orders of the Nevada Public Utilities Commission, and all work performed in relation thereto shall be done in a good and workmanlike manner.

4.2 Grantee Duty to Relocate; Subordination to City Use. Whenever the City shall require the relocation or reinstallation of any of the Telecommunication Services Network of the Grantee or its successors or assigns in any of the streets, alleys, rights-of-way, above ground facilities, or public property of the City, it shall be the obligation of the Grantee, upon notice of such requirement and written demand from the City to the Grantee, and within a reasonable time thereof, but not more than ninety (90) calendar days, weather permitting, to remove and relocate or reinstall such Telecommunication Services Network as may be reasonably necessary to meet the requirements of the City. Such relocation, removal, or reinstallation by the Grantee shall be at no cost to the City. Notwithstanding the foregoing, the duty of the Grantee to install or relocate its lines underground shall be subject to the provisions of paragraph 4.4 below. Any money and all rights to reimbursement from the State of Nevada or the federal government to which the Grantee may be entitled for work done by Grantee pursuant to this paragraph shall be the property of the Grantee. In the event the City or a private third-party or a third-party utility has required the Grantee to relocate its Telecommunication Services Network to accommodate a private third-party or third-party utility, Grantee may pursue any and all legal and equitable means to obtain compensation from such private third-party or third-party utility.

4.3 Duty to Obtain Approval to Move Grantee's Property; Emergency. Except as otherwise provided in this Agreement, the City, without the prior written approval of the Grantee, shall not intentionally alter, remove, relocate, or otherwise interfere with any of the Grantee's Telecommunication Services Network. However, if it becomes necessary to cut, move, remove, or damage any of the cables, appliances, or other fixtures of the Telecommunication Services Network of the Grantee because of a fire, emergency posing an imminent threat of serious harm to persons or property, disaster, or imminent threat of serious harm to persons or property thereof,

these acts may be done without prior written approval of the Grantee, and the repairs thereby rendered necessary shall be made by the Grantee, without charge to the City.

4.4 Location to Minimize Interference. All lines, pipes, conduits, equipment, property, structures, handholes, manholes, and assets of the Grantee shall be located so as to minimize interference with the use of streets, alleys, rights-of-way, and public property, including use and occupancy by others, and shall reasonably avoid interference with the rights of owners of private property that abuts any of said streets, alleys, rights-of-way, or public property. Grantee must cooperate with City and other franchisees and users of public property, and coordinate activities and schedules to minimize public inconvenience, disruption or damages.

4.5 Requirements Applicable to Placement of Telecommunication Services Network in City's Rights-of-Way.

(a) If any portion of a sidewalk, curb, gutter, street, alley, public road, right of way or other public property shall be damaged by reason of defects in the Telecommunications Services Network that is utilized, maintained or constructed under this Franchise, or by reason of any other cause arising from the Grantee's operations, Grantee shall, at its own cost and expense, within sixty (60) days, unless delayed by abnormal weather conditions or acts of God, labor disputes or unavailability of materials, repair any such damage and restore such sidewalk, curb, gutter, street, alley, public road, right of way or other public property, or portion thereof, to as good a condition as it existed before such excavation disturbance, work or other cause of damage occurred.

(b) Subject to paragraph 4.2 above, the Grantee shall relocate, without expense to the City, and within a reasonable time, but in not less than ninety (90) calendar days after the delivery of notice from the City, all or part of the Telecommunication Services Network installed pursuant to this Franchise if and when made necessary by any change of grade, alignment or width of any public road by the City; provided, however, that this provision shall remain in effect only so long as such public road shall remain under the jurisdiction of City as a public road; further provided that the City may, if available, provide a suitable substitute rights-of-way within which Grantee may relocate its Telecommunication Services Network. Notwithstanding the foregoing, in the event the City no longer owns the public road or right-of-way in which Grantee's Telecommunication Services Network is located, all obligations of the City hereunder with respect to that public road or right-of-way shall thereupon terminate. Nothing herein shall be construed to prohibit or restrict any obligation the State or any other third party might otherwise have for the cost of relocating Grantee's Telecommunication Services Network.

(c) All of the Telecommunication Services Network of the Grantee which are installed and/or used pursuant to this Franchise shall be installed, constructed and maintained in a good and workmanlike manner and in compliance with all applicable laws and ordinances then in effect, together with the orders, rules and regulations of the Public Utilities Commission of the State of Nevada. Before the work of installing new or the upgrade of existing Telecommunication Services Network is commenced, the Grantee shall coordinate the location thereof with the City and, as an accommodation to the Grantee, the City will provide historical and other information to assist in the location of such lines and appurtenances as may be reasonably necessary to avoid sewers, water pipes, conduits and other structures located in or under public roads and rights-of-way of the City;

provided, however, the City shall not be not responsible for the accuracy of any such information and Grantee shall have the sole responsibility for avoiding sewers, water pipes, conduits and other structures that are present.

(d) Grantee shall comply with all provisions of the Elko City Code, Chapter 2, Title 8, entitled "Conditions of Utility Occupancy of Public Roads and City Street Cuts and Repairs" not in conflict with NRS 268.088 or any other applicable federal or state law or regulation.

4.6 Construction Standards. Prior to any construction or excavation, the Grantee shall submit plans, stamped by a registered Nevada professional engineering, depicting the locations of the proposed Telecommunication Services Network. Plans must be reasonably approved by the City and proper permits obtained prior to commencing such work. Grantee shall further supply the City, at no cost and on a yearly basis, an accurate as-built record of all Telecommunications Services Network located in the City's Rights-of-Way. The as-built records shall be submitted in an electronic AutoCAD format on the City's coordinate system, along with one (1) paper copy of the Telecommunications Services Network located in the City.

ARTICLE 5 SEVERABILITY

5. Severability. If any section, sentence, paragraph, term or provision of this Agreement is for any reason determined to be or rendered illegal, invalid, or superseded or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof.

ARTICLE 6 ACCEPTANCE BY THE GRANTEE OF FRANCHISE

6. Grantee Duty to Approve Franchise Agreement. If the Grantee has not duly executed this Agreement prior to the City Council's adoption of the corresponding Ordinance, within thirty calendar days after the effective date of the City Council's adoption of the Ordinance, the Grantee shall execute this Agreement; otherwise, this Agreement and any ordinance adopted relating thereto and all rights granted hereunder shall be null and void.

ARTICLE 7 GENERAL PROVISIONS

7.1 Binding Agreement. The parties represent that (a) when executed by their respective representatives, this Agreement shall constitute a binding obligation of the parties; and (b) each party has complied with all applicable statutes, ordinances, resolutions, by-laws and other legal requirements needed to enter into this Agreement.

7.2 Governing Law. This Agreement shall be interpreted pursuant to Nevada law.

7.3 Interpretation of Agreement. If any provision of this Agreement shall be held or declared to be void, invalid or illegal, for any reason, by any court of competent jurisdiction, such provision shall be ineffective but shall not in any way invalidate or effect any other clause, paragraph, section or part of this Agreement. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraphs and article headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

7.4 No Presumption. All parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing the Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

7.5 Entire Agreement and Amendments. This document contains the entire Agreement of the parties hereto with respect to matters covered hereby, and no other agreement, statement or promise made by any party hereto, or agent of such party, which is not contained or incorporated herein, save and except any ordinance or other action of the Elko City Council in furtherance hereof, shall be binding or valid. No purported modification, amendment or other change in this Agreement shall be valid unless set forth in writing, and signed by both Grantee and the City, and approved by the City Council if so required. This Agreement replaces and supersedes any existing contract between the City and Grantee pertaining to the subject matter hereof, to include the services described herein and the Franchise Fees associated therewith. This paragraph shall not be interpreted as a waiver of Grantee's right to challenge a City licensing or permitting requirement through the appropriate legal process.

7.6 Binding Agreement. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.

7.7 Jurisdiction and Venue. Jurisdiction and venue for any disputes arising under this Agreement shall be in the United States District Court for the District of Nevada (Northern Division) or, if the Federal court lacks subject matter jurisdiction, then in the Fourth Judicial District Court in and for the County of Elko, State of Nevada.

7.8 Notices. Under this Agreement, whenever provision is made for notice of any kind, it shall be deemed sufficient notice and service thereof if the said notice is in writing and is personally served or is deposited in the mail in a properly stamped envelope to be delivered by certified mail, return receipt requested, addressed as follows:

If to the City:

Attention: City Manager
City of Elko
1751 College Avenue
Elko, Nevada 89801

If to Grantee:

Attention: Dave Skinner
White Cloud Communications NV
633 Main Ave. East
Twin Falls, Idaho 83301
Office 208-733-5470
Cell 208-421-0026

Joseph Shelton
White Communications, Inc
633 Main Avenue East
Twin Falls, Idaho 83301
Office 208-733-5470
Cell 208-308-1234

Dale Lotspeich
White Cloud Communications NV
180 River Street, Suite A
Elko, Nevada 89801
Office 775-738-4055
Cell 775-340 6078

Changes in the respective addresses to which such notices shall be directed may be made from time to time by either party. Notice of any such change in address shall be directed to the other party in writing by certified mail, return receipt requested.

7.9 Waivers. One or more waivers of any covenant, agreement or condition of default regarding provisions of this Agreement by either the City or Grantee shall not be construed as a waiver of a further breach of the same covenant, agreement, condition or the right of such party thereafter to enforce every provision.

7.10 Rights, Remedies and Benefits Cumulative. The rights, remedies and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other said rights, remedies and benefits, nor of any other rights, remedies and benefits allowed by law.

[SIGNATURE PAGE(S) FOLLOWING]

CITY OF ELKO

By: _____

REECE KEENER, Mayor

ATTEST:

By: _____

Kelley Woolridge, City Clerk

**WHITE CLOUD COMMUNICATIONS
INCORPORATED**

By: _____

TBD

Its: _____

**Elko City Council
Agenda Action Sheet**

1. Title: **Status update on the Public Nuisance complaint regarding 403 Pine Street, and matters related thereto. INFORMATION ONLY-NON ACTION ITEM**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **UNFINISHED BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Based upon City Council action on October 22, 2019, Staff is providing a status update with regard to 403 Pine Street. 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: **N/A**
9. Recommended Motion: **N/A**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to accept a letter of resignation from Mr. Ian Montgomery from the Planning Commission, and to further authorize Staff to commence with the standard recruitment process to fill the vacancy on the Planning Commission, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **This resignation is a result of Mr. Montgomery's work schedule conflicting with the Planning Commission meetings. 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: **Letter of Resignation**
9. Recommended Motion: **Accept the resignation of Planning Commission member Ian Montgomery, and direct Staff to begin the recruitment process.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Ian Montgomery
1297 Cherrywood Drive
Elko, NV 89801
lbmont.montgomery@gmail.com**

Dear City of Elko,

I regret to inform you that I will be resigning from the City of Elko planning commission. This decision has come with months of thought and I believe this to be the best course of action for myself and the community. I thank the city council and my fellow commissioners for this wonderful opportunity and what they have all taught me. Serving briefly on the planning commission has lit a passion of mine for local government and rural Nevada. I currently have a job in politics that allows me to travel and meet with voters in remote rural areas. Though I currently live in Elko my time and resources are stretched thin across the state and I will be leaving the state sometime in March.

Sincerely Ian Montgomery

RECEIVED

NOV 26 2019

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of the First Amendment to the Agreement to Install Improvements and Provide Maintenance Guaranty with DDS Properties, LLC for the Humboldt Hills Subdivision, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **As required by Elko City Code 3-3-21, the City and DDS Properties, LLC entered into an agreement to install improvements for the Humboldt Hills Subdivision on February 12, 2019. The agreement to install improvements stated that the developer would construct the subdivision improvements with its own resources. However, in some cases, the developer may decide to post a performance guaranty, then record a final map and begin construction prior to the completion of the subdivision improvements. In this case, DDS Properties has completed some of the subdivision improvements for the Humboldt Hills Subdivision, but has chosen to post a performance guaranty in accordance with Elko City Code 3-3-22 and Section 1.A of the agreement to install improvements for the remainder of the work. To accomplish this, staff has determined that the City and the developer need to revise language in the agreement to install improvements that is inconsistent with posting a performance guaranty for the remaining work. To permit the developer to post a performance guaranty while staying in compliance with the agreement to install improvements, staff is recommending the proposed First Amendment. 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: **Copy of First Amendment to Agreement to Install Improvements and Provide Maintenance Guaranty; Estimate for Bond Amount**
9. Recommended Motion: **Approve First Amendment to Agreement to Install Improvements and Provide Maintenance Guaranty for the Humboldt Hills subdivision.**
10. Prepared By: **Michele Rambo, AICP, Development Manager**

Agenda Item V.B.

11. Committee/Other Agency Review: **Dave Stanton, City Attorney**

12. Council Action:

13. Council Agenda Distribution: **DDS Properties, LLC
717 West Idaho Street
Elko, NV 89801**

**FIRST AMENDMENT TO AGREEMENT TO INSTALL IMPROVEMENTS
AND PROVIDE MAINTENANCE GUARANTY**

This First Amendment to Agreement to Install Improvements and Provide Maintenance Guaranty (hereinafter the "First Amendment") is entered into this ___ day of _____, 2019 (hereinafter the "Effective Date") 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 **DDS PROPERTIES, LLC**, a Nevada Limited-Liability Company, hereinafter referred to as the "Developer."

R E C I T A L S

WHEREAS, the **Developer** is subdividing certain property within the **City** generally known as the "Humboldt Hills Subdivision" into twenty-six (26) separate parcels;

WHEREAS, the **Developer** has prepared Subdivision Map No. 12-18 in connection with the Humboldt Hills Subdivision;

WHEREAS, on February 12, 2019, the **Developer** entered into an Agreement to Install Improvements and Provide Maintenance Guaranty (hereinafter the "Performance Agreement") with the **City** pursuant to Elko City Code (ECC) Title 3, Chapter 3 in connection with the Humboldt Hills Subdivision;

WHEREAS, the Performance Agreement provides that the **Developer** will complete the subdivision improvements shown on the construction plans, referred to as the "**Work**," with its own resources;

WHEREAS, as of the Effective Date hereof, the **Developer** has completed a portion of the **Work**, but a portion of the **Work** remains to be completed before final acceptance by the **City**;

WHEREAS, the **City** has not accepted as complete the Engineer of Record certification for **Work** completed;

WHEREAS, the **Developer** will post the full amount of the maintenance guaranty as provided in the Performance Agreement;

WHEREAS, the full cost of the remaining **Work** which will be used to calculate the performance guaranty will not exceed \$238,557;

WHEREAS, the performance guaranty will be in an amount to be calculated by the **City** based on the engineer's estimate and other factors permitted pursuant to the ECC;

WHEREAS, the **Developer** wishes to post a performance guaranty for the remaining **Work**;

WHEREAS, Section 1.A of the Performance Agreement provides that “[d]uring the construction of the subdivision improvements, **Developer** may, at its option, guarantee performance of the remaining subdivision improvements with a performance guaranty that conforms to City Code Sections 3-3-21(A)(3)(b) and 3-3-22.”

NOW, THEREFORE, in consideration of the above recitals, the **Developer** and the **City** hereby agree as follows:

1. **AMENDMENT TO PERFORMANCE AGREEMENT.** The Performance Agreement is hereby amended and modified as follows:

A. The last sentence of Paragraph 1.A. (Completion of Work and Maintenance Guaranty) is hereby amended and modified to state as follows:

During the construction of the subdivision improvements, the **Developer** shall 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. Subparagraph 1.D.3 (Certification of Final Map) is hereby modified and amended to state as follows:

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**;

C. Subparagraph 1.D.5 (Certification of Final Map) is hereby modified and amended to state as follows:

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**;

D. A new Paragraph 2.Q is added, as follows:

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.

2. GENERAL TERMS AND CONDITIONS. Except as modified by this First Amendment, the Performance Agreement shall remain in full force and effect, and the Performance 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 Performance Agreement, the terms of the First Amendment shall control. Defined terms used in the Performance Agreement not defined in this First Amendment shall have the meanings set forth in the Performance 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.

IN WITNESS WHEREOF, the parties have executed this First Amendment in duplicate on the Effective Date.

CITY - THE CITY OF ELKO,

**DEVELOPER - DDS PROPERTIES,
LLC**

By: _____
REECE KEENER, Mayor

By: _____

ATTEST:

KELLY WOOLDRIDGE, City Clerk

Humboldt Hills
Estimate for Bond Amount
December 3, 2019

No.	Item	Estimated Cost
1	Sidewalk	\$ 164,880.00
2	ADA Curb Ramp Domes	\$ 3,000.00
3	Barrier Curb behind Curb Ramp	\$ 9,040.00
4	Sidewalk Cross Drain	\$ 2,000.00
5	10" Valve	\$ 4,000.00
6	Street and Stop Signs	\$ 1,950.00
7	Street Lights	\$ 8,000.00
8	Street Monuments	\$ 3,500.00
9	Surveying	\$ 2,000.00
10	Testing	\$ 2,500.00
11	Repair to Jennings Way Asphalt	\$ 10,000.00
12	Asphalt Seal (Interior)	\$ 6,000.00
	Subtotal	\$ 216,870.00
13	10% Contingency	\$ 21,687.00
	Total Performance Guarantee	\$ 238,557.00
14	Maintenance Bond	\$ 201,043.00
	Total Amount Due	\$ 439,600.00

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration and possible approval of a lease agreement between the City of Elko, Elko Regional Airport and Nevada Gold Mines, LLC at the Elko Regional Airport and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Nevada Gold Mines wishes to enter into a two (2) year lease agreement with the Elko Regional Airport for the lease of 20 parking spaces located at the airport terminal. The current lease will expire on December 31, 2019. JF**
6. Budget Impact Statement:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Lease Agreement Package**
9. Recommended Motion: **Move to approve lease agreement between the Elko Regional Airport and Nevada Gold Mines, LLC**
10. Prepared By: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Randy Largent
Senior Landman
Nevada Gold Mines
Randall.largent@nevadagoldmines.com**

LEASE AGREEMENT
(Airport Parking Spaces)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 20____, 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 NEVADA GOLD MINES LLC, a Delaware limited-liability company, 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 following property at the Elko Regional Airport 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 at the Elko Regional Airport, State of Nevada, 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 January 1, 2020 and end at midnight on December 31, 2022 (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 one (1) year 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 Monthly Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises for the use of twenty (20) parking spaces the sum of TWO THOUSAND, FOUR HUNDRED DOLLARS (\$2,400.00) per month.

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 TWO THOUSAND, FOUR HUNDRED DOLLARS (\$2,400.00) per month thereafter, payable on the first day of each and every month during the Term.

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 the parking of employee vehicles in the designated parking spaces and no other use, including the storage of personal property, shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 5

SERVICES TO BE PERFORMED BY LESSEE

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards applicable to vehicle parking areas at the Elko Regional Airport. 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 at the Elko Regional Airport. 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.

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 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.

11.03 Termination Without Cause. Notwithstanding any other provision contained herein, either Party may terminate this Lease for any reason or no reason upon sixty (60) calendar days' prior written notice to the other Party.

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.

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 movement of the buildings and changes as 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 liens and improvements, the removal of which is requested by the Lessor.

SECTION 15 **ASSIGNMENT**

15.01 No Assignment. This Lease shall not be assigned, nor shall any 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 **CLOSURE OF AIRPORT**

17.01 Rent Abated; Term Adjusted. During any period when the airport shall be closed by any lawful authority restricting the use of the airport in such a manner as to materially interfere with Lessee's use, the rent shall abate and the period of such closure shall be added to the term of this Lease so as to extend and postpone the expiration thereof.

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 hangar and personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 23.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for the storage of airplanes 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:	Nevada Gold Mines LLC 1655 Mountain City Highway Elko, Nevada 89801
---------	---

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.

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's signature on next page)

LESSEE:

NEVADA GOLD MINES LLC

By: _____

Its: _____

|

EXHIBIT A

LEGAL DESCRIPTION OF LEASE AREA

A portion of the Elko Regional Airport parcel, located in the south half of Section 16, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Elko County, Nevada, more particularly described as follows;

Beginning at a point that bears South 34°51'06" East, a distance of 1,125.27 feet from the Elko Regional Airport survey control monument "Cessna";
Thence, North 44°28'26" East, a distance of 100.00 feet;
Thence, South 45°31'34" East, a distance of 40.00 feet;
Thence, South 44°28'26" West, a distance of 100.00 feet;
Thence, North 45°31'34" West, a distance of 40.00 feet, more or less, to the point of beginning.

Said lease area contains $\pm 4,000$ square feet.

The basis of bearings for this description is the Nevada State Plane Coordinate System, East zone. Ground coordinates are given for the following monuments, with a grid to ground scale factor of 1.000357:

Elko Regional Airport survey control monument "Cessna"

N 2847077.14

E 599834.56

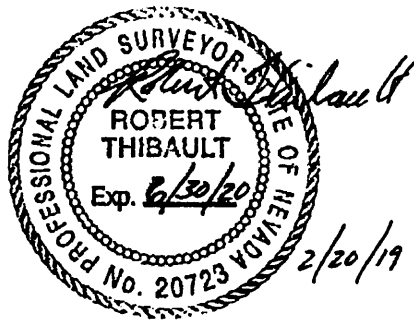
Elko Regional Airport survey control monument "Piper"

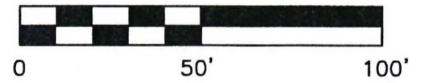
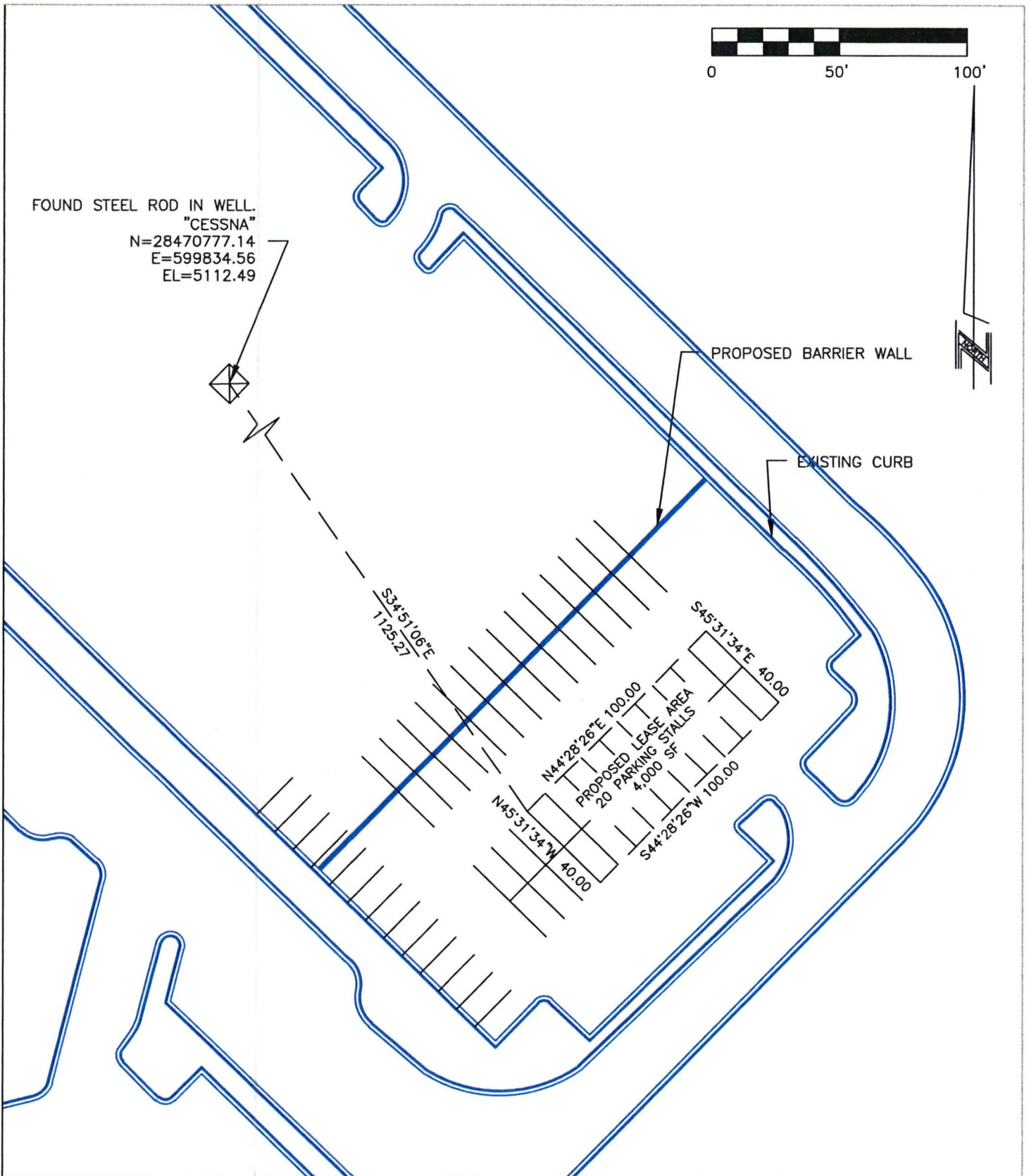
N 28469096.94

E 599075.75

With a bearing of South 24°18'17" West and distance of 1,843.60 feet from Cessna to Piper.

Description prepared by:
Robert Thibault, PE, PLS
City of Elko Civil Engineer





SCALE
HORIZ 1"=50'
VERT _____
JOB No _____

**EXHIBIT B
NEWMONT PARKING AREA
LEASE DISPLAY MAP**

DESIGNED BY: BT
DRAWN BY: ACAD CDD 2017
CHECKED BY: BT
DATE: 5/20/2018

IN SECTION 16, T 34 N,
R 55 E, M.D.B.&M.

U:\Airport\2015-Lease-working files\2015-LEASE-MASTER-DRAWING.dwg

RULES AND REGULATIONS
Exhibit C

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 part 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 part 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 approval of a Hangar (C6 and D3) Lease Agreement with Mark and Kim Hooper, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **Mr. Hooper recently purchased Hangars C6 and D3 from Ann Barron and Ron Privasky and a new Lease Agreement needs to be completed with Mark and Kim Hooper. Additionally, airport ground leases of less than one-half an acre are no longer subject to appraisal/auction process for cities whose population is less than 25,000 (NRS 496.80) JF**
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: **Lease Description & Map, Copy of Lease Agreement**
9. Recommended Motion: **Move to approve a Hangar (C6 and D3) Lease with Mark and Kim Hooper.**
10. Prepared By: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution: **Mark and Kim Hooper
PO Box 2011
Elko, NV 89803**

LEASE AGREEMENT
(Airport Hangars C6 and D3)

THIS LEASE AGREEMENT is made and entered into this ____ day of _____, 2019, 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 MARK HOOPER and KIM HOOPER, jointly and severally, hereinafter collectively 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 following property at the Elko Regional Airport 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 at the Elko Regional Airport, State of Nevada, for placement of an airplane hangar, known as "T-Hangars C-6 and D-3," 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 _____, 2019 and end at midnight on _____, 2029 (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 one (1) additional ten (10) year term. All provisions of the Lease, including rental terms, will be subject to renegotiation at the expiration of the initial term. The option to extend must be exercised in writing by the Lessee not later than sixty (60) days prior to the expiration of

the effective 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.

SECTION 3

RENT

3.01 Annual Rent. Lessee agrees to pay to Lessor as rent for the Leased Premises an annual rent payment computed as follows:

Hangars C-6 and D-3: 1,855 square feet @ \$.28/square foot = \$519.40

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 first _____ months of the Lease.

3.03 Date Rent Due. After the initial term referenced in Section 3.02, said rent shall be paid annually in advance on or before June 30th of each year, beginning June 1, 2020, in the sum of _____ (\$ _____). It is hereby agreed that said rental rate may be increased if the City adopts rental increases for other hangar lessees at the Elko Regional Airport.

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 the placement of an airplane hangar and the storage of airplanes and no other use, including the storage of personal property other than airplanes, shall be made of the Leased Premises without the prior approval of the Lessor.

SECTION 5

SERVICES TO BE PERFORMED BY LESSEE

5.01 Maintenance of Leased Premises. The Lessee shall maintain the Leased Premises in accordance with the highest standards for airport hangars at the Elko Regional Airport. The Lessee shall maintain the Leased Premises in a clean, neat and sanitary condition.

5.02 Cost of Maintenance. The Lessee shall bear all of the costs of maintaining

its hangar, and shall pay, in addition to the rent, all other costs associated with the use of the Leased Premises including maintenance, insurance, any and all taxes, and shall pay for all permits and licenses required by law.

5.03 Loss/Theft/Damage. The Lessee shall be responsible for the loss or theft of and damage to all of its property at the Elko Regional Airport. 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.

SECTION 6

REMOVAL OF HANGAR

6.01 Termination Upon Removal of Hangar. In the event the airplane hangar placed on the property by Lessee is removed for a period of thirty (30) days, this Lease shall terminate without further notice.

SECTION 7

LESSOR'S OPTION TO PURCHASE HANGAR

7.01 Purchase of Hangar Upon Lease Termination/Expiration. As additional consideration for this Lease, Lessee hereby grants to Lessor the option to purchase the hangar constructed on the Leased Premises by Lessee in accordance with the provisions hereof, together with any alternations or additions thereto. In the case of the natural expiration of the term of this Lease, for which purposes of this Section shall include any written extensions or renewals of the terms of this Agreement, Lessor may exercise the option by giving written notice of exercise to Lessee no later than forty-five (45) days prior to the expiration date. In the case of an earlier termination of this Lease, Lessor shall exercise its option to purchase by giving written notice of Lessor's exercise of the option to Lessee at any time prior to the date of termination.

7.02 Determination of Hangar Purchase Price. The purchase price for the hangar shall be the then fair market value of the hangar as determine by an agreement between Lessor and Lessee. If Lessor and Lessee are unable to agree upon the fair market value, then Lessor, at Lessor's cost and expense, shall provide Lessee with a written appraisal of the hangar within thirty (30) days after the day of the written notice exercising the option. Lessee shall then have ten days to either accept or reject the appraisal submitted by Lessor and shall provide Lessor written notice of Lessee's acceptance or rejection of the appraisal. If Lessee rejects Lessor's appraisal, then Lessee shall, at Lessee's cost and

expense, obtain an appraisal of the hangar by a qualified and experience MAI appraiser selected by Lessee and Lessee shall provide Lessor with the written appraisal of the hangar within thirty (30) days after the date of written notice rejecting Lessor's appraisal. If Lessee rejects Lessor's appraisal and obtains a separate appraisal of the fair market value of the hangar, then the purchase price shall be the average of the two appraisals.

7.03 Payment of Purchase Price. The purchase price for the hangar shall be paid by Lessor to Lessee in cash within ninety (90) days after the expiration or termination of the Lease. Upon receipt of the purchase price, Lessee shall execute and deliver to Lessor a bill of sale, in a form approved by Lessor, transferring title to the hangar to Lessor free and clear of all liens, encumbrances and security interests.

SECTION 8

REMOVAL OF PROPERTY UPON TERMINATION OF LEASE

8.01 Lessee to Remove Personal Property. In the event of the termination of this Lease, Lessee shall have a reasonable time to remove from the Leased Premises all personal property owned by Lessee and any structures placed thereon by Lessee, provided that the removal of such structures and property can be accomplished without damage to the land and provided that Lessee repairs and restores the land to the condition the land was placed by the Lessor.

SECTION 9

INSURANCE

9.01 Personal Property Insurance. The Lessee shall procure and keep in force, fire and extended coverage insurance upon their leasehold improvements, fixtures and equipment to the full insurance value thereof and shall furnish the Elko Regional Airport Director with evidence that such coverage has been procured and is being maintained in full force and effect.

9.02 Liability Insurance. The Lessee shall maintain with insurance underwriters, satisfactory to the City of Elko, a standard form policy or policies of insurance in such amounts as may from time to time be approved by the City of Elko protecting the City of Elko against public liability and property damage. The Lessee shall promptly, after the execution of this Agreement, furnish such policy or policies for property damage arising out of any one accident or other cause in a sum of not less than \$500,000.00; for personal injuries/death arising out of any one accident or other cause with liability of not less than \$1,000,000.00. It is understood that the specified amounts of insurance in no way limits the liability of the Lessee and that the Lessee shall carry insurance in such amounts so as to

indemnify and save harmless the City of Elko and the Lessor from all claims, suits, demands and actions.

9.03 Proof of Insurance to Lessor. The Lessee shall furnish a certificate from the insurance carrier or carriers showing such insurance to be in full force and effect during the term of this contract, or shall deposit copies of the policies which give this coverage with the Elko Regional Airport Director.

SECTION 10

INDEMNIFICATION AND HOLD HARMLESS

10.01 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 11

CONDUCT BY LESSEE

11.01 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 12

WASTE

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

SECTION 13

UTILITIES

13.01 Lessee to Pay for Service. Lessee will pay all charges for light, power and/or water and any other utilities and services used upon or in connection with said Leased

Premises.

SECTION 14

TAXES

14.01 Lessee to Pay Taxes/Fees. Lessee will pay all city, county, school district and state taxes levied or assessed against the Leased Premises and any property placed thereon, together with all necessary license fees.

SECTION 15

DEFAULT

15.01 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.

15.02 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 16

QUIET POSSESSION

16.01 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 17

IMPROVEMENTS

17.01 Notification of Lessor. Lessee shall notify Lessor prior to making any improvements to the Leased Premises. All improvements to the property shall be made at Lessee's expense.

SECTION 18
AIRPORT MASTER PLAN

18.01 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 movement of the buildings and changes as 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 22.04 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 liens and improvements, the removal of which is requested by the Lessor.

SECTION 19
ASSIGNMENT

19.01 No Assignment. This Lease shall not be assigned, nor shall any 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 20
LIENS / ENCUMBRANCES

20.01 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 21
CLOSURE OF AIRPORT

21.01 Rent Abated; Term Adjusted. During any period when the airport shall be closed by any lawful authority restricting the use of the airport in such a manner as to materially interfere with Lessee's use, the rent shall abate and the period of such closure shall be added to the term of this Lease so as to extend and postpone the expiration thereof.

SECTION 22

INSPECTION

22.01 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 23

ADDITIONAL TERMS

23.01 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.

23.02 Abandonment. In the event the Lessee abandons the Leased Premises, the Lease shall immediately terminate without further notice and any hangar and personal property remaining on the Leased Premises shall become the property of Lessor. For purposes of this Section 23.02, "abandonment" shall occur when either Lessee notifies Lessor that it has abandoned the Leased Premises or Lessee does not use the Leased Premises for the storage of airplanes for a period of ninety (90) days.

23.03 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.

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

CITY OF ELKO:	Elko Regional Airport Director City of Elko 1751 College Avenue Elko, NV 89801
---------------	---

LESSEE: Mark and Kim Hooper
P.O. Box 2011
Elko, Nevada 89803

23.05 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.

23.06 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.

23.07 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.

23.08 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.

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

23.10 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 Agreement to be executed on the day and year first above written.

(Signatures on next page)

LESSOR:

CITY OF ELKO

By: _____
REECE KEENER, Mayor

ATTEST:

Kelly Wooldridge, City Clerk

LESSEE:

MARK HOOPER

KIM HOOPER

EXHIBIT A

LEGAL DESCRIPTION OF LEASE AREA

A portion of the Elko Regional Airport parcel, located in the southeast quarter of Section 16, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Elko County, Nevada, containing two hangars in a portion of a larger hangar building, more particularly described as follows;

Hangars C6 and D3

Beginning at a point that bears South 74°47'41" East, a distance of 1,598.57 feet from the Elko Regional Airport survey control monument "Cessna";
Thence, North 44°11'00" East, a distance of 56.30 feet;
Thence, South 45°49'00" East, a distance of 30.00 feet;
Thence, South 44°11'00" West, a distance of 68.30 feet, more or less, to a demising wall within the hangar building;
Thence, North 45°49'00" West, a distance of 14.00 feet, along a demising wall within the hangar building;
Thence, North 44°11'00" East, a distance of 12.00 feet, continuing along a demising wall within the hangar building;
Thence, North 45°49'00" West, a distance of 16.00 feet, continuing along a demising wall within the hangar building, to the point of beginning.

Said Hangars C6 and D3 contain an area of $\pm 1,855$ square feet.

The basis of bearings for this description is the Nevada State Plane Coordinate System, East zone. Ground coordinates are given for the following monuments, with a grid to ground scale factor of 1.000357:

Elko Regional Airport survey control monument "Cessna"

N 2847077.14

E 599834.56

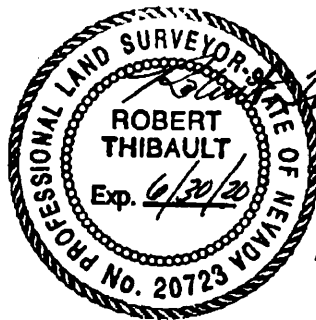
Elko Regional Airport survey control monument "Piper"

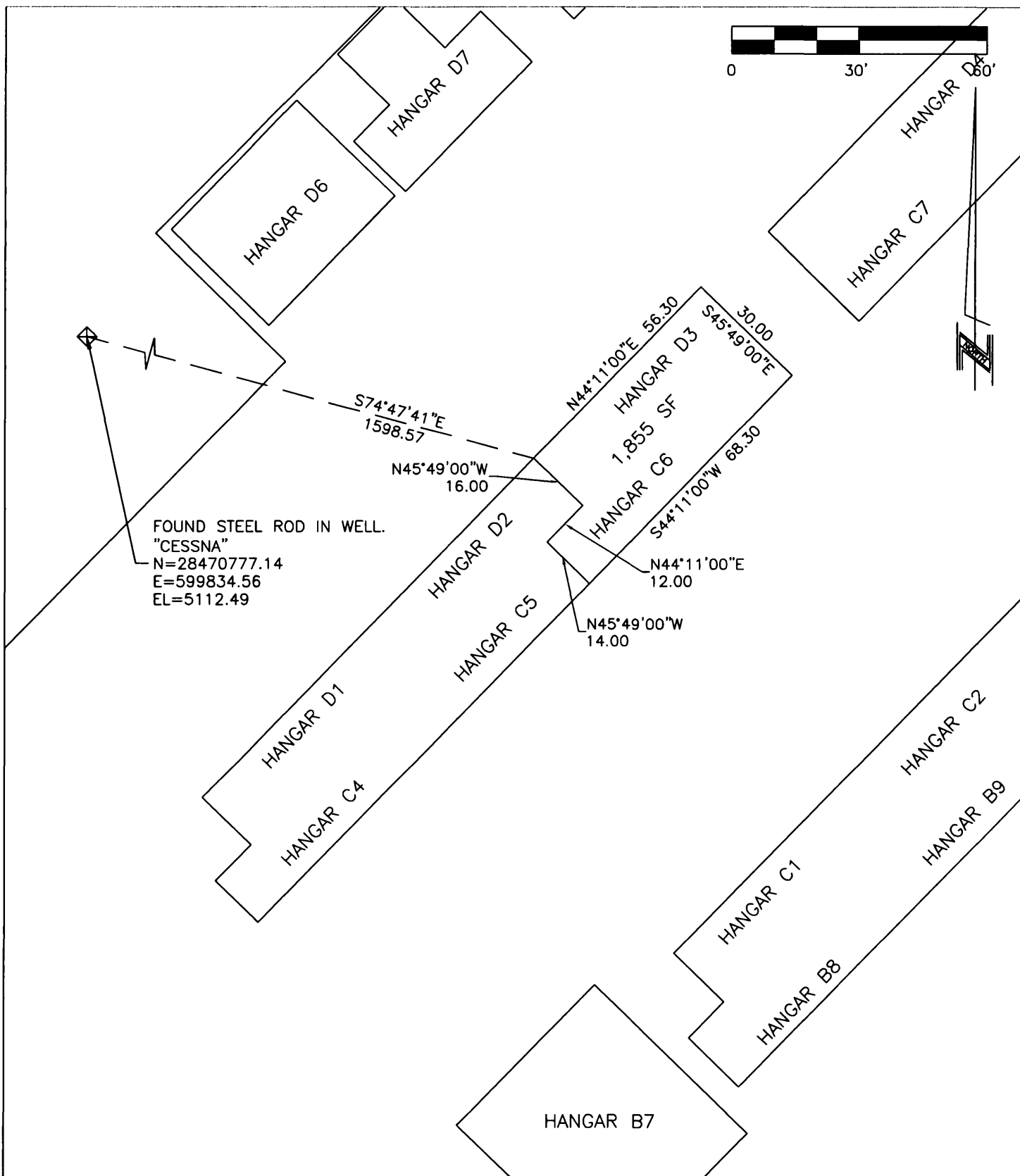
N 28469096.94

E 599075.75

With a bearing of South 24°18'17" West and distance of 1,843.60 feet from Cessna to Piper.

Description prepared by:
Robert Thibault, PE, PLS
City of Elko Civil Engineer





CITY OF ELKO
1781 COLLEGE AVE
ELKO, NEVADA 89601
775-777-7210

SCALE

HORIZ 1"=50'

VERT 1"=10'

JOB No.

EXHIBIT B MAP OF HANGARS C6 AND D3 LEASE AREA FOR THE CITY OF ELKO

DESIGNED BY: BT

DRAWN BY: ACAD C3D 2017

CHECKED BY: BT

DATE: 11/18/2018

IN SECTION 16, T 34 N,
R 55 E, M.D.B.&M.

U:\Airport\2015-Lease-working files\2015-LEASE-MASTER-DRAWING.dwg

RULES AND REGULATIONS
Exhibit C

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 fire fighting 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 part 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 part 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 fire fighting 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 suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, 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 appointment of Jan Baum, Financial Services Director, as the City of Elko, Property and Equipment Officer, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **2019 Hinton Burdick Audit Finding/Recommendation**

2019-004 Property and Equipment Officer

Finding

We noted that with the separation of the previous Administrative Services Director, the State had not been notified of the change in the Property and Equipment Designated Officer required under NRS 354.625. We did not note anywhere in the minutes of the City where the designation took place during a council meeting.

Recommendation

We recommend that the City designate a Property and Equipment Designated Officer as required by NRS 354.625. JB

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: **Copy of NRS 354-625**
9. Recommended Motion: **Appoint Jan Baum, Financial Services Director as the City of Elko Property and Equipment Officer**
10. Prepared By: **Jan Baum, Financial Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Jan Baum, Financial Services Director**
 Jbaum@elkocitynv.gov

NRS 354.625 Records relating to property and equipment; control of inventory. The governing body of every local government shall:

1. Cause to be established and maintained adequate property and equipment records and, where appropriate, adequate inventory controls. Any local government created after July 1, 1975, shall establish such records and controls within 1 year after its creation unless the Department of Taxation grants an extension of time.

2. Require that all such property, equipment and inventory records clearly indicate specific ownership.

3. Designate, by entry in the minutes of the governing body, the officer, employee or officers or employees responsible for the maintenance of property and equipment records and, where appropriate, inventory records, and notify the Department of Taxation of such designation.

(Added to NRS by 1967, 940; A 1975, 157, 1689)

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible adoption of Resolution No. 18-19, a resolution amending the Water User Meter Fees pursuant to Elko City Code Title 9, Chapter 1, and Section 29, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **RESOLUTION**
4. Time Required: **10 Minutes**
5. Background Information: **At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.**

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-18 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the Water User Meter Fees 5% per year over the next three years. KW
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Completed**
8. Supplemental Agenda Information: **Copy of Resolution No. 19-18 and Water Rate Study**
9. Recommended Motion: **Adopt Resolution No. 19-18**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Upon introduction and motion by Councilmember _____ and seconded by Councilmember _____, the following Resolution and Order was duly passed and adopted.

CITY OF ELKO

RESOLUTION NO: 18-19

A RESOLUTION AMENDING THE WATER USER METER FEES PURSUANT TO ELKO CITY CODE TITLE 9, CHAPTER 1, SECTION 29.

WHEREAS, Elko City Code Section 9-1-29 (B)(1) provides that the City Council may, by resolution, change the rates for water use and consumption; and

WHEREAS, the City Council commissioned a water rate study and has identified the need to increase certain rates in order to adequately fund the operation of the City of Elko Municipal Water System and has deemed it necessary to increase the rates for water use and consumption;

WHEREAS, Elko City Code section 9-1-29 (B) permits water rates to be calculated and billed based upon the metered quantity consumed.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF ELKO that fees for water meters be established as follows:

RATES BEGINNING JANUARY 1, 2020				
Meter Size	Monthly Base Fee	Proposed Monthly Base Fee	Volume Usage Fee (\$/Kgal)	Proposed Volume Usage Fee (\$/Kgal)
¾ inch	\$13.98	\$14.49	\$1.02	\$1.095
1 inch	\$18.53	\$21.77	\$1.02	\$1.095
1 ½ inch	\$27.65	\$38.83	\$1.02	\$1.095
2 inch	\$36.76	\$58.38	\$1.02	\$1.095
3 inch	\$61.07	\$105.54	\$1.02	\$1.095
4 inch	\$91.44	\$170.72	\$1.02	\$1.095
6 inch	\$152.20	\$326.10	\$1.02	\$1.095
8 inch	\$212.96	\$506.48	\$1.02	\$1.095
10 inch	\$273.71	\$711.86	\$1.02	\$1.095
12 inch	\$334.47	\$1242.24	\$1.02	\$1.095

RATES BEGINNING JANUARY 1, 2021		
Meter Size	Proposed Monthly Base Fee	Proposed Volume Usage Fee (\$/Kgal)
¾ inch	\$15.21	\$1.15
1 inch	\$22.85	\$1.15
1 ½ inch	\$40.77	\$1.15
2 inch	\$61.29	\$1.15
3 inch	\$110.81	\$1.15
4 inch	\$179.25	\$1.15
6 inch	\$342.40	\$1.15
8 inch	\$531.80	\$1.15
10 inch	\$747.45	\$1.15
12 inch	\$1304.35	\$1.15

RATES BEGINNING JANUARY 1, 2022		
Meter Size	Proposed Monthly Base Fee	Proposed Volume Usage Fee (\$/Kgal)
¾ inch	\$15.97	\$1.21
1 inch	\$23.99	\$1.21
1 ½ inch	\$42.80	\$1.21
2 inch	\$64.35	\$1.21
3 inch	\$116.35	\$1.21
4 inch	\$188.21	\$1.21
6 inch	\$359.52	\$1.21
8 inch	\$558.39	\$1.21
10 inch	\$784.82	\$1.21
12 inch	\$1369.56	\$1.21

NOW THEREFORE BE IT ALSO RESOLVED AND ORDERED that this resolution become effective on January 1, 2020.

Passed and adopted this _____ day of _____, 2019.

CITY OF ELKO

REECE KEENER, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

VOTE

AYES:

NAYS:

ABSENT:

ABSTAIN:

**Elko City Council
Agenda Action Sheet**

1. **Title: Review, consideration, and possible adoption of Resolution No. 19-19, a resolution amending the water flat rate user fees pursuant to Elko City Code Title 9, Chapter 1, and section 29, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **RESOLUTION**
4. Time Required: **10 Minutes**
5. Background Information: **City Council accepted the Water Study completed by Farr West Engineering and directed staff to complete a business impact statement on water rate increases at the September 9, 2019 City Council Meeting. At the November 12, 2019 meeting City Council accepted the business impact statement and found that Resolution 19-19 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution raises the water flat rate user fees 5% per year over the next three years. KW**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Completed**
8. Supplemental Agenda Information: **Copy of the resolution and water rate study**
9. Recommended Motion: **Adopt Resolution 19-19**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilmember _____ and seconded by Councilmember _____, the following Resolution and Order was duly passed and adopted.

CITY OF ELKO

RESOLUTION NO: 19-19

A RESOLUTION AMENDING THE WATER FLAT RATE USER FEES PURSUANT TO ELKO CITY CODE TITLE 9, CHAPTER 1, SECTION 29.

WHEREAS, the Elko City Code Section 9-1-29 (B)(1) provides that the City Council may, by resolution, change the rates for water use and consumption; and

WHEREAS, the City Council commissioned a water rate study and has identified the need to increase certain rates in order to adequately fund the operation of the City of Elko Municipal Water System and has deemed it necessary to increase the rates for water use and consumption;

WHEREAS, Elko City Code Section 9-1-29 (B) permits water rates to be calculated and billed using a water fixture unit count;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF ELKO that fees for water use and consumption where calculated by water fixture unit count be established as follows:

	CURRENT RATE	PROPOSED RATE 2020	PROPOSED RATE 2021	PROPOSED RATE 2022
Monthly Charge	\$0.4281 per fixture unit	\$0.45 per fixture unit	\$.48 per fixture unit	\$.51 per fixture unit
Minimum Monthly Charge – Assumes 66 fixture units	\$ 28.25	\$ 29.70	\$31.68	\$33.66

NOW THEREFORE BE IT ALSO RESOLVED AND ORDERED that this resolution become effective on January 1, 2020.

Passed and adopted this _____ day of _____, 2019.

CITY OF ELKO

REECE KEENER, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

VOTE

AYES:

NAYS:

ABSENT:

ABSTAIN:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible adoption of Resolution No. 20-19, a resolution setting the fees for Fire Protection Services Line pursuant to Elko City Code Title 9, Chapter 1, Section 29, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **RESOLUTION**
4. Time Required: **10 Minutes**
5. Background Information: **At the September 9, 2019 meeting, Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases.**

At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Resolution No. 19-20 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. This resolution establishes a fee for the Fire Protection Service Line Pursuant to Ordinance No. 846. KW
6. Budget Information

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Completed**
8. Supplemental Agenda Information: **Copy of Resolution No. 19-20 and Water Rate Study**
9. Recommended Motion: **Adopt Resolution No. 19-20**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Upon introduction and motion by Councilmember _____ and seconded by Councilmember _____, the following Resolution and Order was duly passed and adopted.

CITY OF ELKO

RESOLUTION NO: 20-19

A RESOLUTION SETTING THE FEES FOR FIRE PROTECTION SERVICES LINE PURSUANT TO ELKO CITY CODE TITLE 9, CHAPTER 1, SECTION 29.

WHEREAS, the City of Elko desires to amend portions of the City Code pertaining to water rates by adding a fire service protection line fee in order to further promote orderly growth and development, and to protect the interest, health, safety and general welfare of the public; and

WHEREAS, the Elko City Code Section 9-1-29 provides that the City Council may, by resolution, set the rates for water use and consumption; and

WHEREAS, the City Council had identified the need to increase certain rates in order to adequately fund the operation of the City of Elko Municipal Water System and has deemed it necessary to increase the rates for water use and consumption;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF ELKO that fees for water meters be established as follows:

PROPOSED MONTHLY FIRE SERVICE RATES			
DIAMETER	MONTHLY CHARGE 2020 \$5.38 Per inch of fire service line diameter	MONTHLY CHARGE 2021 \$5.64 Per inch of fire service line diameter	MONTHLY CHARGE 2022 \$5.92 Per inch of fire service line diameter
4 inch	\$21.52	\$22.59	\$23.71
6 inch	\$32.28	\$33.89	\$35.58
8 inch	\$43.04	\$45.19	\$47.44
10 inch	\$53.80	\$56.49	\$59.31
Unknown (will be treated as 4 inch)	\$21.52	\$22.59	\$23.71

NOW THEREFORE BE IT ALSO RESOLVED AND ORDERED that this resolution become effective on January 1, 2020.

Passed and adopted this _____ day of _____, 2019.

CITY OF ELKO

REECE KEENER, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

VOTE

AYES:

NAYS:

ABSENT:

ABSTAIN:

Elko City Council
Agenda Action Sheet

1. Title: **Ratification of the Police Chief issuing a 30-day Temporary Retail Wine and/or Beer License and recommended denial of the request to issue a Regular Retail Wine and/or Beer License, to Jorge, DBA Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, NV 89801, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **N/A**
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: **N/A**
9. Recommended Motion: **Ratification of the Police Chief issuing a 30-day Temporary Retail Wine and/or Beer License and I recommend denial of the request to issue a Regular Retail Wine and/or Beer License, to Jorge Contreras, DBA Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, NV 89801.**
10. Prepared By: **Ty Trouten, Police Chief**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Jorge Contreras**
232 Silver Street
Elko, NV 89801
JCseafood1989@icloud.com



ELKO POLICE DEPARTMENT

Ty Trouten
Police Chief

1448 Silver Street
Elko, Nevada 89801
775.777.7310
775.738.1415 Fax
www.elkocity.com

DATE: December 3, 2019

TO: Curtis Calder, City Manager

FROM: Ty Trouten, Police Chief

SUBJECT: Packaged Liquor License Application in the name of Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, Nevada 89801

On October 30, 2019, Jorge Contreras made application for a Retail Wine and/or Beer License in the name of Mr. Shrimp Mariscos, located at the above address.

Mr. Contreras has completed the required background investigation.

Prior to bringing this application before Council, several issue arose, calling into question the moral character of the applicant. Due to these concerns, it is my recommendation the Elko City Council deny Mr. Contreras' request for a Retail Wine and/or Beer License Application in the name of Mr. Shrimp Mariscos, located at 232 Silver Street, Elko, Nevada 89801.

TT/tle

CC: Mayor Keener

**Elko City Council
Agenda Action Sheet**

1. Title: **Second reading, public hearing, and possible adoption of Ordinance No. 846, an ordinance amending Title 9 Chapter 1, section 3 adding a definition of fire protection service line and section 29, adding a Fire Protection Service Fee, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **December 10, 2019**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information: **City Council accepted the Water Study completed by Farr West Engineering and directed Staff to complete a Business Impact Statement on Water Rate Increases at the September 9, 2019 Council Meeting. At the November 12, 2019 meeting, Council accepted the Business Impact Statement and found that Ordinance No 846 does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business. First reading of this ordinance was held on November 26, 2019. KW**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **N/A**
7. Business Impact Statement: **Completed**
8. Supplemental Agenda Information: **Copy of Ordinance No. 846 and Water Rate Study**
9. Recommended Motion: **Conduct second reading, public hearing, and adopt Ordinance No. 846.**
10. Prepared By: **Kelly Wooldridge, City Clerk**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

ORDINANCE 846

AN ORDINANCE AMENDING TITLE 9 CHAPTER ONE SECTION THREE ADDING A DEFINITION OF FIRE PROTECTION SERVICE LINE AND SECTION TWENTY NINE ADDING A FIRE PROTECTION SERVICE FEE

WHEREAS, the City of Elko desires to amend portions of the City Code pertaining to water rates by adding a fire protection service line fee in order to further promote orderly growth and development, and to protect the interest, health, safety and general welfare of the public; and

WHEREAS, the City of Elko has determined that the proposed amendments further those goals; and

WHEREAS, the City of Elko desires to amend Title 9, Chapter 1, Section 3 & 29 of the Elko Code, and has followed all procedural requirements and legal noticing required per City Code and N.R.S.

9-1-3: DEFINITIONS:

As used in this chapter, unless the context requires otherwise, the following are to mean:

CITY COUNCIL: The city council of the city of Elko.

CONNECTION CHARGES OR CONNECTION FEE: A fee charged in order to equalize the investment in plant and equipment and other facilities made by the city of Elko. The charge is for the right of service in the system.

DIRECTOR: The city engineer or any of his duly authorized representatives.

ELKO MUNICIPAL WATER SYSTEM OR WATER SYSTEM: The system of conduits, pumps, tanks and structures used for the purpose of conveying from its sources, treating in any manner and conveying to final points of use, all water services requested of the city and on a schedule approved by the city council. Specifically included as integral parts of the system are all conduits of any nature forming a part of the general network of conduits or connected directly or indirectly to said network; all pumps, treatment facilities, tanks and structures of any kind used in connection with the collection, treatment and disposition of water; and all appurtenances to any of the above, either physically or functionally connected therewith.

FIRE PROTECTION SERVICE LINE: A water line utilized for fire suppression and protection, together with all associated standpipes, fire apparatus connections, fire service taps, valves, pipes, fire hydrants, fire department connections, backflow devices, appurtenances and fixtures.

FIXTURE UNIT SURVEY: The tabulation of fixture units by physical inspection or review of construction plans to determine the fixture unit count.

FULL FRONTAGE: All lot lines of any lot, parcel or tract of property adjacent to a road, street, alley or right of way, to include lots, parcels or tracts containing multiple borders or edges, such as corner

lots.

HOOKUP CHARGE: See definition of Tap Fee ~~or~~ or Hookup Charge.

PREMISES: A continuous tract of land, building or group of adjacent buildings under a single control with respect to use of water and responsibility for payment therefor. Subdivision of such use or responsibility shall constitute a division into separate premises, as herein defined, except that where more than one dwelling is being served through the same water service, in which case each of said dwellings shall constitute a separate premises and shall be subject to the same separate charges as if separate single-family dwellings.

TAP FEE OR HOOKUP CHARGE: A charge made by the department for installation of a service to a customer. The cost includes installation of a corporation stop on the main in front of the property and installation of the service line and curb stop terminating the service line at a point at or near the property line.

WATER DEPARTMENT: The city of Elko water department, located at 1751 College Avenue.

WATER FIXTURE UNIT: A numerical value assigned to different types of plumbing fixtures to reflect demand of the water system. Fixture units shall be utilized for billing on the basis of demand of each user. A tabulation of the numerical value assigned to the various types of plumbing fixtures is included in section 9-1-51 of this chapter.

WATER FIXTURE UNIT COUNT: The total water fixture units (WFUs) determined by counting or estimating and assigned to an individual water billing account number.

WATER FIXTURE UNIT RATE: The dollar amount charged per water fixture unit per month (\$/WFU/mo). (~~Ord. 740, 8-9-2011~~)

9-1-29: WATER RATES:

A. Residential: Rates for water use and consumption shall be set by resolution of the city council.

B. Classes Of Service Other Than Residential:

1. Rates Set By Resolution: Rates for water use and consumption for all other classes and types of uses shall be set by resolution of the city council.
2. Water Fixture Unit Count ~~For~~ Existing Accounts: The water fixture unit count for all existing accounts shall be determined by the citywide fixture unit survey conducted in November 1981.
3. New Water Fixture Counts: New water fixture counts shall be determined by the building inspector who will conduct a fixture unit survey at the time a building permit is requested from the construction drawings provided by the applicant or when a final building inspection is done by the building inspector of the completed structure.
4. Revision ~~Of~~ Water Fixture Unit Count: The director, or his designee, may revise any water fixture unit count based on a resurvey of any establishment or property at his sole discretion.
5. Resurvey ~~Of~~ Water Fixture Unit Count; Fee: The property owner may also request a resurvey of his water fixture unit count at any time upon payment of a fee of twenty five dollars (\$25.00).

6. Meter Rates:

a. As an alternative to the water fixture unit method of billing, the city will bill based upon a metered quantity consumed. The user must submit a method of reporting meter readings satisfactory to the director to assure safeguards against tampering with the meter. Once the user selects to use a meter as a basis of his billing, he may revert to a WFU basis only on the anniversary date of his selection to use the meter as the basis for billing. The user shall purchase his water meter from the city and the user shall pay all costs incurred in installing such meter.

b. The meter rate shall be set by resolution of the city council.

C. Minimum Charge: The minimum charge for water service for any classification of water user shall be based on sixty six (66) WFUs times the rate per water fixture unit for such classification.

D. Public Facilities: Water fees shall be assessed for all public buildings unless specifically waived by the city council as part of a lease of public property. (Ord. 560, 1-23-2001)

E. Changes in Rates: All changes in user rates for water use and consumption shall first be proposed to the city council at a regularly scheduled meeting. The proposed change in rates shall not be acted upon until the following regularly scheduled or subsequent meeting. (Ord. 561, 2-27-2001)

7. 7. Fire Protection Service Line Fees:

a. The City Council shall, by resolution, set a fee or schedule of fees for Fire Protection Service Lines connected to users.

b. The City Council may, in its discretion, set separate fees for different pipe diameters, and for residents and non-residents of the City.

c. Each user of a Fire Protection Service Line, without regard to whether the Fire Protection Service Line is actually used, shall be responsible for payment of a Fire Protection Service Line Fee to the City in addition to any other applicable water service fees and charges.

d. The Fire Protection Service Line Fee shall be billed and collected in the same manner as other fees for water service.

e. Fire Protection Service Lines shall be subject to regulation, discontinuance of service, refusal to serve, and termination in the same manner as other water supplies, sources and systems as set forth in this Chapter. Users shall be entitled to appeal rights pursuant to Section 41 of this Chapter.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible acceptance of a Water Rate Study by Farr West Engineering, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **September 10, 2019**
3. Agenda Category: **PRESENTATION**
4. Time Required: **20 Minutes**
5. Background Information: **The last increase to the monthly Water Flat Rate User Fee as well as the monthly water meter fee was in 2007. Expenses have exceeded revenues the past three years resulting in the need for a water rate increase. Farr West Engineering was hired to perform a Water Rate Study to determine the rate increase needed to cover expenses as well as improve equitability between different customer service sizes and types. RL**
6. Budget Information:
 Appropriation Required: **N/A**
 Budget amount available: **N/A**
 Fund name: **Water**
7. Business Impact Statement: **Required**
8. Supplemental Agenda Information: **Water Rate Study Summary presentation by Brent Farr of Farr West Engineering**
9. Recommended Motion: **Move to accept (or modify) the Water Rate Study and recommended rate increase, and direct Staff to proceed with the Business Impact Statement process. The new rate shall become effective January 1, 2020.**
10. Prepared By: **Ryan Limberg, Utilities Director**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Council Agenda Distribution:

TECHNICAL MEMORANDUM

CITY OF ELKO

2019 WATER UTILITY RATE STUDY

Prepared For: Ryan Limberg, P.E., City of Elko Utilities Director

Prepared By: Brent Farr, P.E.

Date: August 21, 2019

Subject: 2019 Water Utility Rate Study Summary

1.0 PURPOSE

The purpose of this Technical Memorandum (TM) is to present the results of the 2019 Water Utility Rate Study.

2.0 SCOPE OF STUDY

The City requested a proposal from Farr West Engineering (Farr West) to conduct a utility rate study specifically for the monthly user rates of the water utility. This study does not consider connection fees or sewer rates. The objective of this rate study is to develop rates that provide adequate revenues to fully fund operations and maintenance of the City's water utility.

3.0 BACKGROUND INFORMATION

The City of Elko has not raised water utility user rates since 2007. The utility has both metered and unmetered rates. The current rates are as follows:

Water Metered Rates

The following rate schedule does not include the cost of purchasing and/or installing water meters. Commercial and residential metered rates are based on the monthly base rate according to the following schedule. Please note that there are currently no metered customers with meters larger than 6-inches.

Service Size	Base Monthly Fee (\$/month)	Volume Usage Fee (\$/Kgal)
3/4 Inch	\$13.98	\$1.02
1 Inch	\$18.53	\$1.02
1.5 Inch	\$27.65	\$1.02
2 Inch	\$36.76	\$1.02
3 Inch	\$61.07	\$1.02
4 Inch	\$91.44	\$1.02

6 Inch	\$152.20	\$1.02
8 Inch	\$212.96	\$1.02
10 Inch	\$273.71	\$1.02
12 Inch	\$334.47	\$1.02

Water Flat Rates

Residential monthly charge is \$0.4281 per month per fixture unit, with a minimum monthly charge of \$28.25 (or 66 fixture units). Classes other than residential are charged \$0.4281 per water fixture unit per month, or a minimum monthly charge of \$28.25.

4.0 FINANCIAL REVIEW AND REVENUE REQUIREMENTS

4.1 Review of Financials

Audited financial statements from fiscal year (FY) 2013 to FY 2018 are summarized in Table 1, "Water Fund Statement of Net Position," which is included in Attachment 1 at the end of this memo. Year-end financials for FY 2019 were projected using year-to-date numbers provided by the City, as of May 19, 2019. The financial summaries reveal several important points:

1. Operating revenues from water user fees are essentially flat over the last 7 years. One might expect this since there were no rate increases over this period. However, new customers are being added to the system, as evidenced by capital contributions received through connection fees. Therefore, some increase in revenues would be expected. One explanation is that large multi-family customers are paying significantly less for water service when they convert from residential flat rate service to commercial metered service.
2. Operating expenses have increased an average of 6.0% per year over the last 6 years, in-line with other water utilities across the country and outpacing standard inflation benchmarks. The American Water Works Association's most recent water and wastewater rate survey showed that between the 2016 and 2018 surveys, charges increased 7.2 percent for water utilities. During the same span, the Consumer Price Index (CPI) increased 4.6 percent. Between 1996 and 2018, charges increased 5.09 percent annually for water utilities. This compares to an annual 2.1 percent increase in the CPI over the same period.
3. The financial outcome of flat revenues and increasing operating costs over a 7-year period is a projected operating loss of \$503,326.14 (14.6%) at the end of FY 2019, compared to an operating income of \$527,987 (15.9%) in 2013.

4.2 Revenue Requirements

Please refer to Table 1 in Attachment 1. Using the City's approved budget for FY 2020, and projecting increases in expenses of 5.0% for FY 2021 and FY 2022, annual revenue requirements (total operating expenses) were estimated for the three fiscal years.

5.0 PROPOSED RATE MODIFICATIONS

In order to balance the budget, certain rate modifications have been proposed for FY 2020. These modifications are shown in detail in Table 2 of Attachment 1. Automatic 5% annual increases to rates are proposed for FY 2021 and FY 2022 in order to keep pace with estimated operating expenses. The methodology for raising the base meter rate is shown in Table 3. Table 4 shows the projected increased revenue for FY 2020 as a result of the proposed rate increases and Table 5 shows how certain customers would be impacted by the rate modifications. Table 1 shows the final revenue and expense projections for all three fiscal years, assuming that the rate modifications are adopted and made effective on January 1, 2020.

6.0 FIRE PROTECTION SERVICE FEES

The City does not currently have specific fees for fire protection service but would like to consider such fees. Fire protection service differs from other services provided by the utility. Essentially, this is a standby service that the utility makes available on demand. Although most fire hydrants and sprinkler connections are rarely used, the utility must be ready to provide adequate water quantities and pressures at all times throughout the distribution system. The costs associated with maintaining the supply, treatment, pumping, storage and distribution capacity for fire protection services include annual O&M costs and capital costs invested in facilities that are sized larger than necessary for non-firefighting purposes.

The most common method of charging for private fire service is to base the charge on the size of the customer's fire service connection. The service size is the best measure of the demand that can be put on the system in case of a fire. Truckee Meadows Water Authority (TMWA), which is the water service provider for Reno, Sparks and parts of Washoe County, uses this method. The fee charged by TMWA is a monthly fee of \$5.38 per inch of the nominal diameter of the fire service pipe.

Given that a detailed analysis of the City's cost to provide fire protection capacity within the water system has not been completed, it is recommended that the City adopt TMWA's fire protection rate of \$5.38 per inch of the nominal diameter of the fire service pipe.

7.0 RATE COMPARISON

The following table shows the 3/4" residential metered rates for the City of Elko assuming the proposed rates for FY 2020 are approved. The table also shows the rates for similar communities in Nevada, assuming a monthly usage of 15,000 gallons, and based on the rates in effect as of the date of this study.

Rates	City of Elko	City of Wells	City of Fernley	City of Winnemucca
Base Monthly Charge	\$14.49	\$40.90	\$49.29	\$1.65
Volumetric Charge	\$16.43	\$6.50	\$51.75	\$18.75
Total Monthly Bill	\$30.92	\$47.40	\$101.04	\$20.40

ATTACHMENT 1

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 Projected ¹	FY 2020 Projected ²	FY 2021 Projected ³	FY 2022 Projected ⁴
Operating Revenues										
Water User Fees	\$3,250,297.00	\$3,238,382.00	\$3,247,158.00	\$3,279,912.00	\$3,268,235.00	\$3,271,847.00	\$ 3,332,231	\$ 3,512,308	\$ 3,784,694	\$ 3,973,928
Other	\$69,114.00	\$66,192.00	\$128,970.00	\$142,625.00	\$104,052.00	\$131,043.00	\$ 109,411	\$ 131,043	\$ 131,043	\$ 131,043
Total Operating Revenues	\$3,319,411.00	\$3,304,574.00	\$3,376,128.00	\$3,422,537.00	\$3,372,287.00	\$3,402,890.00	\$3,441,642.56	\$3,643,350.63	\$3,915,736.69	\$4,104,971.37
Annual Change in Revenues (%)		-0.4%	2.2%	1.4%	-1.5%	0.9%	1.1%	5.9%	7.5%	4.8%
Operating Expenses										
Salaries and Wages	\$635,655.00	\$689,257.00	\$741,453.00	\$783,945.00	\$829,328.00	\$818,290.00	\$ 938,173	\$ 858,050	\$ 900,953	\$ 946,000
Employee Benefits	\$293,140.00	\$321,212.00	\$325,769.00	\$452,082.00	\$570,238.00	\$478,208.00	\$ 484,406	\$ 441,600	\$ 463,680	\$ 486,864
Services and Supplies	\$1,387,171.00	\$1,429,448.00	\$1,410,253.00	\$1,616,237.00	\$1,608,342.00	\$1,753,160.00	\$ 1,943,148	\$ 1,813,830	\$ 1,904,522	\$ 1,999,748
Depreciation	\$475,458.00	\$483,739.00	\$495,372.00	\$518,677.00	\$542,672.00	\$575,643.00	\$ 579,241	\$ 582,839	\$ 586,000	\$ 590,000
Total Operating Expenses	\$2,791,424.00	\$2,923,656.00	\$2,972,847.00	\$3,370,941.00	\$3,550,580.00	\$3,625,301.00	\$3,944,968.70	\$3,696,319.00	\$3,855,154.00	\$4,022,611.70
Annual Increase in Expenses (%)		4.74%	1.68%	13.39%	5.33%	2.10%	8.82%	-6.3%	4.3%	4.3%
Operating Income	\$527,987.00	\$380,918.00	\$403,281.00	\$51,596.00	-\$178,293.00	-\$222,411.00	-\$503,326.14	-\$52,968.37	\$60,582.69	\$82,359.67
Nonoperating Revenues										
Investment Earnings	\$5,982.00	\$2,528.00	\$16,084.00	\$31,491.00	\$47,033.00	\$72,772.00	\$ 124,074	\$ 124,074	\$ 124,074	\$ 124,074
Gain on disposal of capital assets	\$35,613.00	\$7,125.00	\$0.00	\$4,361.00	-\$22,405.00	\$0.00	\$ -	\$ -	\$ -	\$ -
Total Nonoperating Revenues	\$41,595.00	\$9,653.00	\$16,084.00	\$35,852.00	\$24,628.00	\$72,772.00	\$124,073.95	\$124,073.95	\$124,073.95	\$124,073.95
Income Before Capital Contributions	\$569,582.00	\$390,571.00	\$419,365.00	\$87,448.00	-\$153,665.00	-\$149,639.00	-\$379,252.19	\$71,105.58	\$184,656.64	\$206,433.62
Capital Contributions - Connection Fees	\$995,068.00	\$382,189.00	\$1,123,221.00	\$464,112.00	\$196,010.00	\$404,190.00	\$ 350,007	\$ 350,007	\$ 350,007	\$ 350,007
Change in Net Position	\$1,564,650.00	\$772,760.00	\$1,542,586.00	\$551,560.00	\$42,345.00	\$254,551.00	-\$29,245.29	\$421,112.48	\$534,663.54	\$556,440.52
Net Position, Beginning of Year	\$20,260,874.00	\$21,825,524.00	\$22,598,284.00	\$22,872,794.00	\$23,424,354.00	\$23,466,699.00	\$23,510,846.00	\$23,481,600.71	\$23,902,713.19	\$24,437,376.72
Restatement	\$0.00	\$0.00	-\$1,268,076.00	\$0.00		-\$210,404.00				
Net Position, End of Year	\$21,825,524.00	\$22,598,284.00	\$22,872,794.00	\$23,424,354.00	\$23,466,699.00	\$23,510,846.00	\$23,481,600.71	\$23,902,713.19	\$24,437,376.72	\$24,993,817.24

1. FY 2019 Projected revenues and expenses provided by Candi Quilici on July 19, 2019. Minor adjustments can be expected during audit.

2. FY 2020 is the approved budget, with rate increases represented in the revenue.

Table 2 - Proposed Rate Modifications

City of Elko Existing Water Rates and Proposed Changes

Existing Rates Became Effective July 1, 2007

Proposed changes to take effect January 1, 2020

All rates to increase 5% on January 1, 2021 and January 1, 2022

Existing Flat Rates

Monthly Charge is: \$0.4281 per fixture unit.

Minimum Monthly Charge is: \$28.25 (Assumes 66 fixture units).

Proposed Flat Rates

Increase flat rates by 7.4%

Monthly Charge is: \$0.4598 per fixture unit.

Minimum Monthly Charge is: \$30.35 (Assumes 66 fixture units).

Existing and Proposed Metered Rates

Meter Size	Monthly Base Fee	Proposed Monthly Base Fee	Volume Usage Fee (\$/Kgal)	Proposed Volume Usage Fee (\$/Kgal)
3/4 inch	\$ 13.98	\$ 14.49	\$ 1.02	\$ 1.095
1 inch	\$ 18.53	\$ 21.77	\$ 1.02	\$ 1.095
1-1/2 inch	\$ 27.65	\$ 38.83	\$ 1.02	\$ 1.095
2 inch	\$ 36.76	\$ 58.38	\$ 1.02	\$ 1.095
3 inch	\$ 61.07	\$ 105.54	\$ 1.02	\$ 1.095
4 inch	\$ 91.44	\$ 170.72	\$ 1.02	\$ 1.095
6 inch	\$ 152.20	\$ 326.10	\$ 1.02	\$ 1.095
8 inch	\$ 212.96	\$ 506.48	\$ 1.02	\$ 1.095
10 inch	\$ 273.71	\$ 711.86	\$ 1.02	\$ 1.095
12 inch	\$ 334.47	\$ 1,242.24	\$ 1.02	\$ 1.095

Notes:

1. There are no meters in the system larger than 6"
2. The proposed volume usage fee is 7.4% higher than existing.

Proposed Monthly Fire Service Rates

\$5.38 per inch of fire service line diameter

Diameter	Monthly Charge
4"	\$ 21.52
6"	\$ 32.28
8"	\$ 43.04
10"	\$ 53.80
Unknown*	\$ 21.52

*Unknown fire line sizes will be treated as 4"

Table 3 - Adjusting the base rate for meters to the AWWA equivalent meter ratios

Meter Size	Meters in Service	Current Rate	Proposed Rate (3/4")	AWWA Meter Ratios	Metered Rates Based on AWWA Meter Ratios	Difference Between Current and AWWA Ratio Rates	50% of Difference	Proposed Rates
3/4"	396	\$ 13.98	\$ 15.00	1.00	\$ 15.00	\$ 1.02	\$ 0.51	\$ 14.49
1"	492	\$ 18.53		1.67	\$ 25.00	\$ 6.47	\$ 3.24	\$ 21.77
1.5"	94	\$ 27.65		3.33	\$ 50.00	\$ 22.35	\$ 11.18	\$ 38.83
2"	123	\$ 36.76		5.33	\$ 80.00	\$ 43.24	\$ 21.62	\$ 58.38
3"	12	\$ 61.07		10.00	\$ 150.00	\$ 88.93	\$ 44.47	\$ 105.54
4"	8	\$ 91.44		16.67	\$ 250.00	\$ 158.56	\$ 79.28	\$ 170.72
6"	2	\$ 152.20		33.33	\$ 500.00	\$ 347.80	\$ 173.90	\$ 326.10
8"	0	\$ 212.96		53.33	\$ 800.00	\$ 587.04	\$ 293.52	\$ 506.48
10"	0	\$ 273.71		76.67	\$ 1,150.00	\$ 876.29	\$ 438.15	\$ 711.86
12"	0	\$ 334.47		143.33	\$ 2,150.00	\$ 1,815.53	\$ 907.77	\$ 1,242.24

Table 4 - Additional revenue generated by rate adjustments

Fire Lines:

Diameter	Number	Monthly Charge	Annual Revenue
4"	39	\$ 21.52	\$ 10,071.36
6"	43	\$ 32.28	\$ 16,656.48
8"	37	\$ 43.04	\$ 19,109.76
10"	2	\$ 53.80	\$ 1,291.20
Unknown*	21	\$ 21.52	\$ 5,423.04
			\$ 52,551.84

*Unknown fire line sizes will be treated as 4"

7.4% increase in the flat rate:

1 month of flat rate revenue:	\$ 221,229.48	(from billing report, June 2019)
12 months of flat rate revenue:	\$ 2,654,753.76	
7.4% increase:	\$ 196,451.78	

7.4% increase in the volume usage fee for metered customers:

Total 1,000 gallon Units Sold in 2018:	358,965	(from billing report, calendar year 2018)
Revenue using old rate (\$1.02):	\$ 366,144.30	
Revenue using new rate (\$1.095):	\$ 393,066.68	
Annual Increase in revenue:	\$ 26,922.38	

Adjusting the base monthly fee for metered customers:

Meter Size	Meters in Service	Current Rate	Proposed Rates	Monthly Increase in Base Fee	Monthly Increase in Revenue
3/4"	396	\$ 13.98	\$ 14.49	\$ 0.51	\$ 201.96
1"	492	\$ 18.53	\$ 21.77	\$ 3.24	\$ 1,591.62
1.5"	94	\$ 27.65	\$ 38.83	\$ 11.18	\$ 1,050.45
2"	123	\$ 36.76	\$ 58.38	\$ 21.62	\$ 2,659.26
3"	12	\$ 61.07	\$ 105.54	\$ 44.47	\$ 533.58
4"	8	\$ 91.44	\$ 170.72	\$ 79.28	\$ 634.24
6"	2	\$ 152.20	\$ 326.10	\$ 173.90	\$ 347.80
8"	0	\$ 212.96	\$ 506.48	\$ 293.52	\$ -
10"	0	\$ 273.71	\$ 711.86	\$ 438.15	\$ -
12"	0	\$ 334.47	\$ 1,242.24	\$ 907.77	\$ -
Monthly increase in revenue:					\$ 7,018.91
Annual increase in revenue:					\$ 84,226.92

Total projected increase in annual water user fees:	\$ 360,152.91
Percent Increase over 2019 water user fees:	10.8%

Table 5 - Customer Impacts from Rate Adjustments

Residential flat rate service

Old Rate: \$ 28.25
 New Rate: \$ 30.35
 \$ 2.10 Monthly increase, dollars
 7.4% Monthly increase, %

Residential 3/4" metered service using 12,600 gallons per month

	Meter Fee	Volume Charge	Total
Old rate:	\$ 13.98	\$ 12.85	\$ 26.83
New rate:	\$ 14.49	\$ 13.73	\$ 28.22
	\$ 1.39 Monthly increase, dollars		
	5.2% Monthly increase, %		

Commercial 2" metered service using 40,000 gallons per month, with 6" fire line

	Metered Rate	Fire Line	Total
Old Rate	\$ 77.56	\$ -	\$ 77.56
New Rate	\$ 102.18	\$ 32.28	\$ 134.46
	\$ 24.62	\$ 32.28	\$ 56.90 Monthly increase, dollars
	32%		73% Monthly increase, %

*This is difficult to compare to a flat rate commercial customer of comparable size and type, because the flat rate is based on fixture units. The flat rate will only go up 7.4%, whereas the metered rate will go up 32% (minus the fire line fee that both customers will need to pay).

12-Month Mobile Home Park Comparison - 6" metered Service vs. flat rate (no fire line)

Scenario	12-month Usage (1,000 K)	Avg. Monthly Usage	No. of Spaces	Avg. Monthly Use Per Space	12-month Metered Fees	Average Monthly Metered Fee	Average Monthly Metered Fee Per Space	Flat Rate Annual Fee	Flat Rate - Metered Rate	% Decrease in Bill converting from Flat to Metered
Old	13,366	1,114	86	13.0	\$ 15,459.72	\$ 1,288.31	\$ 14.98	\$ 29,154.00	\$ 13,694.28	47%
New	13,366	1,114	86	13.0	\$ 18,548.97	\$ 1,545.75	\$ 17.97	\$ 31,311.40	\$ 12,762.43	41%
Percent Increase/(decrease):					20.0%	20.0%	20.0%	7.4%		

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 Projected ¹	FY 2020 Projected ²	FY 2021 Projected ³	FY 2022 Projected ⁴
Operating Revenues										
Water User Fees	\$3,250,297.00	\$3,238,382.00	\$3,247,158.00	\$3,279,912.00	\$3,268,235.00	\$3,271,847.00	\$ 3,332,231	\$ 3,512,308	\$ 3,784,694	\$ 3,973,928
Other	\$69,114.00	\$66,192.00	\$128,970.00	\$142,625.00	\$104,052.00	\$131,043.00	\$ 109,411	\$ 131,043	\$ 131,043	\$ 131,043
Total Operating Revenues	\$3,319,411.00	\$3,304,574.00	\$3,376,128.00	\$3,422,537.00	\$3,372,287.00	\$3,402,890.00	\$3,441,642.56	\$3,643,350.63	\$3,915,736.69	\$4,104,971.37
Annual Change in Revenues (%)		-0.4%	2.2%	1.4%	-1.5%	0.9%	1.1%	5.9%	7.5%	4.8%
Operating Expenses										
Salaries and Wages	\$635,655.00	\$689,257.00	\$741,453.00	\$783,945.00	\$829,328.00	\$818,290.00	\$ 938,173	\$ 858,050	\$ 900,953	\$ 946,000
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Annual Increase in Expenses (%)		4.74%	1.68%	13.39%	5.33%	2.10%	8.82%	-6.3%	4.3%	4.3%
Operating Income	\$527,987.00	\$380,918.00	\$403,281.00	\$51,596.00	-\$178,293.00	-\$222,411.00	-\$503,326.14	-\$52,968.37	\$60,582.69	\$82,359.67
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Investment Earnings	\$5,982.00	\$2,528.00	\$16,084.00	\$31,491.00	\$47,033.00	\$72,772.00	\$ 124,074	\$ 124,074	\$ 124,074	\$ 124,074
Gain on disposal of capital assets	\$35,613.00	\$7,125.00	\$0.00	\$4,361.00	-\$22,405.00	\$0.00	\$ -	\$ -	\$ -	\$ -
Total Nonoperating Revenues	\$41,595.00	\$9,653.00	\$16,084.00	\$35,852.00	\$24,628.00	\$72,772.00	\$124,073.95	\$124,073.95	\$124,073.95	\$124,073.95
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Capital Contributions - Connection Fees	\$995,068.00	\$382,189.00	\$1,123,221.00	\$464,112.00	\$196,010.00	\$404,190.00	\$ 350,007	\$ 350,007	\$ 350,007	\$ 350,007
Change in Net Position	\$1,564,650.00	\$772,760.00	\$1,542,586.00	\$551,560.00	\$42,345.00	\$254,551.00	-\$29,245.29	\$421,112.48	\$534,663.54	\$556,440.52
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Restatement	\$0.00	\$0.00	-\$1,268,076.00	\$0.00		-\$210,404.00				
Net Position, End of Year	\$21,825,524.00	\$22,598,284.00	\$22,872,794.00	\$23,424,354.00	\$23,466,699.00	\$23,510,846.00	\$23,481,600.71	\$23,902,713.19	\$24,437,376.72	\$24,993,817.24

1. FY 2019 Projected revenues and expenses provided by Candi Quilici on July 19, 2019. Minor adjustments can be expected during audit.

2. FY 2020 is the approved budget, with rate increases represented in the revenue.

Exhibit A

Table 2 - Proposed Rate Modifications

City of Elko Existing Water Rates and Proposed Changes

Existing Rates Became Effective July 1, 2007

Proposed changes to take effect January 1, 2020

All rates to increase 5% on January 1, 2021 and January 1, 2022

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Monthly Charge is: \$0.4281 per fixture unit.

Minimum Monthly Charge is: \$28.25 (Assumes 66 fixture units).

Proposed Flat Rates

Increase flat rates by 7.4%

Monthly Charge is: \$0.4598 per fixture unit.

Minimum Monthly Charge is: \$30.35 (Assumes 66 fixture units).

Existing and Proposed Metered Rates

Meter Size	Monthly Base Fee	Proposed Monthly Base Fee	Volume Usage Fee (\$/Kgal)	Proposed Volume Usage Fee (\$/Kgal)
3/4 inch	\$ 13.98	\$ 14.49	\$ 1.02	\$ 1.095
1 inch	\$ 18.53	\$ 21.77	\$ 1.02	\$ 1.095
1-1/2 inch	\$ 27.65	\$ 38.83	\$ 1.02	\$ 1.095
2 inch	\$ 36.76	\$ 58.38	\$ 1.02	\$ 1.095
3 inch	\$ 61.07	\$ 105.54	\$ 1.02	\$ 1.095
4 inch	\$ 91.44	\$ 170.72	\$ 1.02	\$ 1.095
6 inch	\$ 152.20	\$ 326.10	\$ 1.02	\$ 1.095
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12 inch	\$ 334.47	\$ 1,242.24	\$ 1.02	\$ 1.095

Notes:

1. There are no meters in the system larger than 6"
2. The proposed volume usage fee is 7.4% higher than existing.

Proposed Monthly Fire Service Rates

\$5.38 per inch of fire service line diameter

Diameter	Monthly Charge
4"	\$ 21.52
6"	\$ 32.28
8"	\$ 43.04
10"	\$ 53.80
Unknown*	\$ 21.52

*Unknown fire line sizes will be treated as 4"

- Adjusting the base rate for meters to the AWWA equivalent meter ratios

Meter Size	Meters in Service	Current Rate	Proposed Rate (3/4")	AWWA Meter Ratios	Metered Rates Based on AWWA Meter Ratios	Difference Between Current and AWWA Ratio Rates	50% of Difference	Proposed Rates
3/4"	396	\$ 13.98	\$ 15.00	1.00	\$ 15.00	\$ 1.02	\$ 0.51	\$ 14.49
1"	492	\$ 18.53		1.67	\$ 25.00	\$ 6.47	\$ 3.24	\$ 21.77
1.5"	94	\$ 27.65		3.33	\$ 50.00	\$ 22.35	\$ 11.18	\$ 38.83
2"	123	\$ 36.76		5.33	\$ 80.00	\$ 43.24	\$ 21.62	\$ 58.38
3"	12	\$ 61.07		10.00	\$ 150.00	\$ 88.93	\$ 44.47	\$ 105.54
4"	8	\$ 91.44		16.67	\$ 250.00	\$ 158.56	\$ 79.28	\$ 170.72
6"	2	\$ 152.20		33.33	\$ 500.00	\$ 347.80	\$ 173.90	\$ 326.10
8"	0	\$ 212.96		53.33	\$ 800.00	\$ 587.04	\$ 293.52	\$ 506.48
10"	0	\$ 273.71		76.67	\$ 1,150.00	\$ 876.29	\$ 438.15	\$ 711.86
12"	0	\$ 334.47		143.33	\$ 2,150.00	\$ 1,815.53	\$ 907.77	\$ 1,242.24

Table 4 - Additional revenue generated by rate adjustments

Fire Lines:

Diameter	Number	Monthly Charge	Annual Revenue
4"	39	\$ 21.52	\$ 10,071.36
6"	43	\$ 32.28	\$ 16,656.48
8"	37	\$ 43.04	\$ 19,109.76
10"	2	\$ 53.80	\$ 1,291.20
Unknown*	21	\$ 21.52	\$ 5,423.04
			\$ 52,551.84

*Unknown fire line sizes will be treated as 4"

7.4% increase in the flat rate:

1 month of flat rate revenue:	\$ 221,229.48	(from billing report, June 2019)
12 months of flat rate revenue:	\$ 2,654,753.76	
7.4% increase:	\$ 196,451.78	

7.4% increase in the volume usage fee for metered customers:

Total 1,000 gallon Units Sold in 2018:	358,965	(from billing report, calendar year 2018)
Revenue using old rate (\$1.02):	\$ 366,144.30	
Revenue using new rate (\$1.095):	\$ 393,066.68	
Annual Increase in revenue:	\$ 26,922.38	

Adjusting the base monthly fee for metered customers:

Meter Size	Meters in Service	Current Rate	Proposed Rates	Monthly Increase in Base Fee	Monthly Increase in Revenue
3/4"	396	\$ 13.98	\$ 14.49	\$ 0.51	\$ 201.96
1"	492	\$ 18.53	\$ 21.77	\$ 3.24	\$ 1,591.62
1.5"	94	\$ 27.65	\$ 38.83	\$ 11.18	\$ 1,050.45
2"	123	\$ 36.76	\$ 58.38	\$ 21.62	\$ 2,659.26
3"	12	\$ 61.07	\$ 105.54	\$ 44.47	\$ 533.58
4"	8	\$ 91.44	\$ 170.72	\$ 79.28	\$ 634.24
6"	2	\$ 152.20	\$ 326.10	\$ 173.90	\$ 347.80
8"	0	\$ 212.96	\$ 506.48	\$ 293.52	\$ -
10"	0	\$ 273.71	\$ 711.86	\$ 438.15	\$ -
12"	0	\$ 334.47	\$ 1,242.24	\$ 907.77	\$ -
Monthly increase in revenue:					\$ 7,018.91
Annual increase in revenue:					\$ 84,226.92

Total projected increase in annual water user fees:	\$ 360,152.91
Percent Increase over 2019 water user fees:	10.8%

Table 5 - Customer Impacts from Rate Adjustments

Residential flat rate service

Old Rate: \$ 28.25
 New Rate: \$ 30.35
 \$ 2.10 Monthly increase, dollars
 7.4% Monthly increase, %

Residential 3/4" metered service using 12,600 gallons per month

	Meter Fee	Volume Charge	Total
Old rate:	\$ 13.98	\$ 12.85	\$ 26.83
New rate:	\$ 14.49	\$ 13.73	\$ 28.22
	\$ 1.39 Monthly increase, dollars		
	5.2% Monthly increase, %		

Commercial 2" metered service using 40,000 gallons per month, with 6" fire line

	Metered Rate	Fire Line	Total
Old Rate	\$ 77.56	\$ -	\$ 77.56
New Rate	\$ 102.18	\$ 32.28	\$ 134.46
	\$ 24.62	\$ 32.28	\$ 56.90 Monthly increase, dollars
	32%		73% Monthly increase, %

*This is difficult to compare to a flat rate commercial customer of comparable size and type, because the flat rate is based on fixture units. The flat rate will only go up 7.4%, whereas the metered rate will go up 32% (minus the fire line fee that both customers will need to pay).

12-Month Mobile Home Park Comparison - 6" metered Service vs. flat rate (no fire line)

Scenario	12-month Usage (1,000 K)	Avg. Monthly Usage	No. of Spaces	Avg. Monthly Use Per Space	12-month Metered Fees	Average Monthly Metered Fee	Average Monthly Metered Fee Per Space	Flat Rate Annual Fee	Flat Rate - Metered Rate	% Decrease in Bill converting from Flat to Metered
Old	13,366	1,114	86	13.0	\$ 15,459.72	\$ 1,288.31	\$ 14.98	\$ 29,154.00	\$ 13,694.28	47%
New	13,366	1,114	86	13.0	\$ 18,548.97	\$ 1,545.75	\$ 17.97	\$ 31,311.40	\$ 12,762.43	41%
Percent Increase/(decrease):					20.0%	20.0%	20.0%	7.4%		