



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

PUBLIC MEETING NOTICE

The Elko City Council will meet in regular session on Tuesday, August 11, 2020
at 4:00 P.M.–7:00 P.M., P.D.T. utilizing **GoToMeeting.com**

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/684699469>

Attached with this notice is the agenda for said meeting of the Elko City Council. In accordance with NRS 241.020, the public notice and agenda were posted on the City of Elko Website at **<http://www.elkocity.com>**, the State of Nevada's Public Notice Website at **<https://notice.nv.gov>**, and in the following locations:

ELKO CITY HALL

1751 College Avenue, Elko, NV 89801

Date/Time Posted: 8:30 a.m., P.D.T., Thursday, August 6, 2020

Posted by: **Kim Wilkinson, Administrative Assistant**

The public may contact Kim Wilkinson by phone at (775) 777-7110 or email at **kwilkinson@elkocitynv.gov** to request supporting material for the meeting described herein. The agenda and supporting material is available on the City website at **<http://www.elkocity.com>**

The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone at: **<https://global.gotomeeting.com/join/684699469>** You can also dial in using your phone at **+1 (646) 749-3122**. The Access Code for this meeting is **684-699-469**

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<https://global.gotomeeting.com/install/684699469>

Dated this 6th day of August, 2020

NOTICE TO PERSONS WITH DISABILITIES

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

Curtis Calder, City Manager
Elko, Nevada

CITY OF ELKO
CITY COUNCIL AGENDA
REGULAR MEETING
4:00 P.M., P.D.T., TUESDAY, AUGUST 11, 2020
ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA
GoToMeeting.com
<https://global.gotomeeting.com/join/684699469>

CALL TO ORDER

The Agenda for this meeting of the Elko City Council has been posted for this date and time in accordance with State of Nevada Emergency Directive 006. The public can view or participate in the virtual meeting on a computer, laptop, tablet or smart phone by registering at the link above.

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. Comments may be made through GoToMeeting.com, or email comments to: cityclerk@elkocitynv.gov **ACTION WILL NOT BE TAKEN**

APPROVAL OF MINUTES: July 28, 2020 Regular Session

I. PRESENTATIONS

- A. Reading of a proclamation by the Mayor in recognition of suicide prevention efforts among Service Members, Veterans and their Families, and matters related thereto.
INFORMATION ONLY-NON ACTION ITEM
- B. Reading of a proclamation by the Mayor in recognition of American Wind Week (Renewable Energy) August 9-15, 2020, and matters related thereto.
INFORMATION ONLY-NON ACTION ITEM

II. CONSENT AGENDA

- A. Discussion and possible authorization to request proposals from qualified individuals or firms to provide Golf Professional Services at Ruby View Golf Course, and matters related thereto. **FOR POSSIBLE ACTION**

Although the current Golf Professional Agreement between the City of Elko and Martin Creek Holdings, LLC was extended to December 31, 2021, the City recently received notice from the Golf Professional that he would be terminating the Agreement one (1) year early (December 31, 2020). A copy of the current agreement and previous RFP has been included in the agenda packet for review. CC

III. PERSONNEL

- A. Review, discussion, and evaluation of City Manager's job performance for Fiscal Year 2019/2020, and matters related thereto. **FOR POSSIBLE ACTION**

Current City policy states that a performance appraisal shall be completed for Appointed Officials each year in July. For the years that are odd numbered, the appraisals are conducted by the City Council for the previous year. For the years that are even numbered, the evaluations are conducted by the City Manager. The exception to this would be the City Manager's appraisal, which is always conducted by the City Council each year in July. SS

IV. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- C. Review of the bids received and possible award of the bid for new scales for the City of Elko Landfill, and matters related thereto. **FOR POSSIBLE ACTION**

Bids were received until 3:00 p.m. local time on August 6, 2020. DS

- D. Review, consideration, and possible authorization for Staff to solicit bids for the Elko City Swimming Pool Re-Plastering Project, and matters related thereto. **FOR POSSIBLE ACTION**

The Re-Plastering Project for the Elko City Pool is ready to go out to bid. Construction will begin once the Re-Roofing Project is completed in mid-November of 2020, and will be completed in mid-December of 2020. JW

V. SUBDIVISIONS

- A. Review, consideration, and possible acceptance of Public Improvements for the Tower Hill Unit 2 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Council approved Final Map 14-18 on March 26, 2019. A Performance and Maintenance Agreement was entered into on that same day.

The Developer has completed the Public Improvements in accordance with the approved plans. The City is in receipt of the required Certification of the project by the Engineer of Record. Upon acceptance of the Public Improvements by the Council, the Developer is required to provide maintenance security in the amount of \$93,105.60, for a 12-month maintenance period, which has already been received. MR

VI. NEW BUSINESS

- A. Review, consideration, and possible approval of Revocable Permit No. 3-20, filed by Patray Assets LLP., to occupy approximately 54 square feet of the Commercial Street Right-of-Way adjacent to their parcel located at 524 Commercial Street to accommodate a handicap ramp, and matters related thereto. **FOR POSSIBLE ACTION**

The applicant recently built the handicap ramp and was notified by the City of Elko that the ramp is within the Right-of-Way. CL

- B. Review, consideration, and possible approval of an amendment to the Exclusive Franchise Agreement between the City of Elko and Elko Sanitation Company dated June 11, 2012, as amended, for sanitation service in the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

Elko Sanitation Company currently provides sanitation service in the City of Elko pursuant to an agreement dated June 11, 2012, as amended. Elko Sanitation is requesting that the rate schedule be amended pursuant to Section 15.01 (CPI Based Change) of the agreement. The request is to be made in writing. Such request is to be accompanied by statement from an independent certified public account that the contractor's cost of doing business has increased at a rate at least equal to the increase in CPI. The fees or compensation may be increased every two (2) years at an amount equal to the net percentage change in the CPI less one percent. SAW

- C. Review, consideration, and possible approval of a Non-Exclusive Franchise Agreement between the City of Elko and Anthem Broadband of Nevada, LLC., 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 ten (10) years and provides for a five (5) year renewal provided the terms and conditions remain the same. The proposed franchise fee is five (5) percent of the gross revenues actually collected from customers located within the corporate limits of the City. SAW

VII. REPORTS

- A. Mayor and City Council
B. City Manager
C. Assistant City Manager

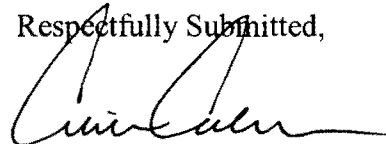
- D. Utilities Director
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director - CARES Act Funding
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

COMMENTS BY THE GENERAL PUBLIC

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

ADJOURNMENT

Respectfully Submitted,



Curtis Calder
City Manager

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

SS July 28, 2020

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, July 28, 2020. Due to the restrictions found in the State of Nevada Emergency Directive 006, the meeting was held in the Silver Room of the Elko Convention and Visitors Authority, 700 Moren Way, Elko.

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 Robert Schmidtlein
 Councilman Chip Stone
 Councilman Bill Hance

City Staff Present: Curtis Calder, City Manager
 Scott Wilkinson, Assistant City Manager
 Kelly Wooldridge, City Clerk
 Dave Stanton, City Attorney
 Paul Willis, Computer Information System Coordinator
 DJ Smith, Computer Information System Coordinator
 Dennis Strickland, Public Works Director
 Ty Trouten, Police Chief
 Diann Byington, Recording

Attending via call-in line:

Jan Baum, Financial Services Director
Michele Rambo, Development Manager
James Wiley, Parks and Recreation Director
Cathy Laughlin, City Planner
Mike Haddenham, WRF Superintendent
Jim Foster, Airport Manager
Jack Snyder, Deputy Fire Chief

PLEDGE OF ALLEGIANCE

COMMENTS BY THE GENERAL PUBLIC

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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**

Mayor Keener noted as of 11:00 am today, there were no COVID hospitalizations at Northeastern Nevada Regional Hospital and that is really good news for the community. Hopefully we will stay in that status. He gave a shout out to all the first responders and the hospital workers for putting themselves in harm's way right now. It has taken a toll but the community can be proud of what they do.

APPROVAL OF MINUTES: July 14, 2020 Regular Session

The minutes were approved by general consent.

I. PRESENTATIONS

- A. Presentation by Nevada Gold Mines, Community Broadband Project Update, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

Greg Walker, Executive Managing Director of Nevada Gold Mines, spoke about the Community Broadband Project. He has been working on this since last year. Nevada Gold Mines is an important part of the community and we build our community support on a base. The base is around education, health and services. When he came to Elko last year, one of the areas he saw that was very deficient on was broadband. There was already a broadband committee formed that the Mayor was part of. Nevada Gold Mines started talking to the committee to see how they can get involved. There was a project well underway with a service provider, Safelink. Safelink was interested in coming into Elko/Spring Creek/Lamoille area. The project was going to struggle because of the size of it. Nevada Gold Mine committed to putting in \$10 million seed capital to help this project get off the ground. Safelink has put together a project charter that will cover all of Elko, Spring Creek and Lamoille. This project is critical especially in light of the COVID crisis we have this year. The idea of working at home or learning from home is flawed without good internet service. They started pushing the project even harder. The plan is to execute in the next three months and start laying fiber. The first areas will be downtown Elko and Spring Creek. After that they will spread out. This project will take between 3 and 5 years to complete.

- B. Presentation by CEO Mary Kerner, Rural Nevada Development Corporation, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

Mary Kerner, CEO Rural Nevada Development Corporation, passed out some paperwork (Exhibit "A") and explained what they do and the I-80 Fund Small Business Relief and Recovery Loans.

II. CONSENT AGENDA

- A. Review, consideration, and possible approval of the City of Elko Fiscal Year 2019/2020 Indebtedness Report, Debt Management Policy, and Five-Year Capital Improvement Plan as required by NRS 350.013, and matters related thereto. **FOR POSSIBLE ACTION**

Pursuant to NRS 350.013, all entities must file the Indebtedness Report, an updated Debt Management Policy, and the Five-Year Capital Improvement Plan. The updated reports are included in the agenda packet for your review. JB

**** A motion was made by Councilwoman Simons, seconded by Councilman Schmidlein, to approve the consent agenda.**

The motion passed unanimously. (5-0)

III. PERSONNEL

A. Employee Introductions:

- 1.) Derek Glennon, Landfill Equipment Operator, Landfill

Present and introduced.

IV. APPROPRIATIONS

- E. Consideration and possible authorization for Staff to solicit bids for a Revenue Collection System for the public parking lot at the Elko Regional Airport, and matters related thereto. FOR POSSIBLE ACTION**

The public parking lot at the Elko Regional Airport is controlled by an automated ticketed pay system that was installed in 2003. Currently, the system is past its useful life and needs to be replaced. The vendor that supplied the system is no longer able to provide assistance when issues arise from the different components failing. In addition, the current system does not meet the national standard for credit card chip reader acceptance. JF

Curtis Calder, City Manager, explained the request. This project was budgeted out of the regular budget and does not qualify for AIP grant funds. It is hard to believe that the old system has been in place for 17 years.

**** A motion was made by Councilman Stone, seconded by Councilman Schmidlein, to authorize staff to go to bid for a Revenue Collection System for the public parking lot at the Elko Regional Airport.**

The motion passed unanimously. (5-0)

- F. Review, consideration, and possible issuance of final acceptance for the WRF East Primary Clarifier Recoating Project 2020, and matters related thereto. FOR POSSIBLE ACTION**

MMI Tank and Industrial Services has completed the Clarifier Recoating Project. Staff recommends the issuance of final acceptance. There was one change order deduction in the amount \$8,478.75. MH

Mike Haddenham, WRF Superintendent, recommended approval.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to issue Final Acceptance of the WRF East Primary Clarifier Recoating Project 2020, in the amount of \$36,670.90.**

The motion passed unanimously. (5-0)

V. NEW BUSINESS

- A. Review, consideration, and possible ratification of Staff's approval for Faulstich and Rand Construction to cut a street, which is on the Five Year No Cut List, located at the intersection of Hot Springs Road and STP Road, and matters related thereto. **FOR POSSIBLE ACTION**

Due to the construction of the new Water/Waste Water Shop, this street cut was unavoidable. DS

Dennis Strickland, Public Works Director, explained the request. The work has been completed over the last few days and now Council needs to ratify the decision.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to ratify the staff's approval for Faulstich and Rand Construction to cut the intersection of Hot Springs Road and STP Road.**

The motion passed unanimously. (5-0)

- B. Review, consideration, and possible approval of a Ratification of Transfer of Airplane Hanger Buildings (B5 & B6) and agreement to Transfer a Lease at Elko Airport, and matters related thereto. **FOR POSSIBLE ACTION**

On June 19, 2020, the City of Elko sent a Notice of Default to the Galen Schorch, Trustee for Park R. Blair Trust regarding Hangers B5 and B6 giving them 30 days to cure the defaults. A ratification and agreement was reached between all parties and the hangar lease is being transferred to Mr. Jeff Dalling. CC

Curtis Calder, City Manager, explained the request. Council needs to ratify the transfer of the airplane hangar building and improvements and agree in concept of the transfer of the lease to Jeff Dalling, with direction to City Staff to bring back the assignment to him.

**** A motion was made by Councilwoman Simons, seconded by Councilman Schmittlein, to ratify the transfer of airplane hangar buildings B5 and B6, and agree to the transfer of the lease at Elko Airport and to also direct staff to bring back the assignment.**

The motion passed unanimously. (5-0)

VI. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Ratification of the Police Chief issuing a Regular Packaged Liquor License to Pedro Romero-Gaeta, DBA Tacos Las Brisas, located at 2172 Pinion Rd, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Trouten explained the request and the containers that will be used to serve alcohol from the taco wagon. Mr. Romero-Gaeta is setting a good example for other businesses to follow.

Mayor Keener thought it was a terrific product.

**** A motion was made by Councilman Stone, seconded by Councilman Schmidtlein, to approve a Regular Packaged Liquor License to Pedro Romero-Gaeta, dba Tacos Las Brisas, located at 2172 Pinion Road, Elko, Nevada, 89801.**

The motion passed unanimously. (5-0)

- B. Ratification of the Police Chief issuing a 30-day Temporary Packaged Liquor License and issue a Regular Packaged Liquor License, to Samra Gurpreet and Ethan Lipparelli, DBA Delivery Boys, LLC, located at 1657 Mountain City Highway Suite 104, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Trouten explained this is a unique business coming out of COVID. These young men started a business delivering groceries from the store to homes. It creates concerns when they are delivering alcohol to someone that purchased it. He sat down with them and went over some scenarios regarding deliveries and how they would verify a person's ID. He recommended approval.

Councilman Hance asked if they will be required to do some TIPS training.

Chief Trouten answered no because they are merely delivering packaged items and not serving open drinks.

**** A motion was made by Councilman Hance, seconded by Councilwoman Simons, to approve ratification of the Police Chief issuing a 30-day temporary packaged liquor license and issue a Regular Packaged Liquor License to Samra Gurpreet and Ethan Lipparelli, dba Delivery Boys, LLC, located at 1657 Mountain City Highway, Suite 104, Elko, Nevada, 89801.**

The motion passed unanimously. (5-0)

- C. Ratification of the Police Chief issuing a 33-day Temporary Retail and Caterer's Liquor License and issue a Regular Retail and Caterer's Liquor License, to Gary Lamb and Ted Lamb, DBA Shutters Hotel Elko, located at 3650 E. Idaho Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Trouten explained the request. This business was formerly known as the Hilton Garden Inn. He recommended approval.

**** A motion was made by Councilman Schmidtlein, seconded by Councilman Stone, to ratify the Police Chief issuing a 33-day temporary retail and caterer's liquor license and issue a Regular Retail and Caterer's Liquor License to Gary Lamb and Ted Lamb, dba Shutters Hotel Elko, located at 3650 E. Idaho Street, Elko, Nevada, 89801.**

The motion passed unanimously. (5-0)

- D. Review, consideration and possible approval for White Cloud Communications Incorporated (White Cloud) to occupy approximately 4,700 feet of City owned conduit as shown on its plans for the Phase II Aspen and Murray Way project, generally extending from the northwest (I-80) corner of the airport security fence to Murray Way, and matters related thereto. **FOR POSSIBLE ACTION**

White Cloud Communications Incorporated (White Cloud) is requesting the utilization of City owned conduit extending from the northwest corner of the airport security fence to Murray Way under its franchise agreement with the City. White Cloud is proposing the installation of a 48 pair fiber cable in the conduit. White Cloud will be required to have at least one customer within 90 days of installation. White Cloud has indicated in its letter dated July 10, 2020 that the cable will occupy approximately 20% of the 2-inch conduit. SAW

Scott Wilkinson, Assistant City Manager, explained the request. Representatives from White Cloud were present to answer questions. At the airport, there is a fiber cable sitting on the security fence. One thing we should consider is while the work is being completed, and if the City were to purchase a fiber cable, would White Cloud consider having their contractor pull that City fiber from the communication vault near Terminal Way back up to a communication vault near Dispatch. The City would reimburse White Cloud for that. We need to consider getting that fiber off the fence and into a conduit.

Dave Skinner, White Cloud Communications, Twin Falls, Idaho, explained they would like to use one of the conduits as explained in the application. They have no problem pulling the City's fiber through their conduit. There are two conduits all the way down to Murray Way. Their conduit would go in one and the City's would go in the other.

Councilwoman Simons asked when do you foresee actually hooking up customers.

Mr. Skinner answered they will have two customers by Labor Day this year, provided the project moves forward.

Councilwoman Simons asked if we needed to amend the motion about pulling our fiber.

Mr. Wilkinson made some suggestions regarding the motion.

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve White Cloud Communications Inc, (White Cloud) to occupy approximately 4,700 feet of City owned conduit as shown on its plans, for the Phase II Aspen and Murray Way Project, generally extending from the northwest (I-80) corner of the airport security fence to Murray Way. The occupancy of the conduit does not prohibit an override by other providers or the City, which do not interfere with White Cloud's operations. We also direct White Cloud to work with City Staff to install fiber from a communications vault near Terminal Way to the termination vault near Dispatch with reimbursement from the City to White Cloud for the fiber cable.**

The motion passed unanimously. (5-0)

- E. Review, consideration, and possible approval of a construction timeline proposed by TEB Properties, LLC/Snyder Mechanical with regard to completion of public improvements on Manzanita Lane frontage located at 4745 Manzanita Lane, and matters related thereto. **FOR POSSIBLE ACTION**

The previous occupant of the building located at 4745 Manzanita Lane, Redburn Tire Company, agreed to pave the portion of Manzanita Drive adjacent to their property in 2012, with the condition that the curb, gutter, and sidewalk be installed by the Ormaza Family Trust as agreed to in Deferral Agreement 3-02. A portion of the curb, gutter, and sidewalk was constructed in 2019, but has not yet been completed. Staff has reached out to representatives of the Ormaza Family Trust and has requested that the remaining portion of improvements be completed in 2020.

Snyder Mechanical will be occupying the building starting in the Fall of 2020 and has asked to enter into a similar agreement as Redburn Tire Company to install the asphalt paving of Manzanita Lane within 12 months of completion of the curb, gutter, and sidewalk. MR

Michele Rambo, Development Manager, spoke about the request.

Gary Morfin, Century 21 Realty, offered to answer any questions.

Jared with Snyder Mechanical and TEB Properties was on the phone to answer questions as well.

Mr. Wilkinson said the Public Works Department is planning on paving a major part of Manzanita this construction season. All the parties should wrap this issue up in late September.

Mayor Keener asked if the family trust has committed to the improvements.

Mr. Wilkinson said he believed the family trust is committed to getting this done. Ms. Rambo has been in contact with all the parties to get this done.

**** A motion was made by Councilman Schmidtlein, seconded by Councilman Hance, to approve the construction timeline proposed by TEB Properties, LLC/Snyder Mechanical in their letter dated July 20, 2020,**

The motion passed unanimously. (5-0)

VIII. REPORTS

A. Mayor and City Council

Councilwoman Simons said she got an invitation to join in on a call, a Telephone Town Hall about COVID-19, what the pharmaceutical industry is doing, where we are at with testing and the response. It is tomorrow evening and by invitation only.

Councilman Stone said the School District is meeting tonight about school starting up. He encouraged everyone to wear their masks.

Mayor Keener made some comments about washing hands and social distancing. It is important to keep the population as healthy as possible so we don't get shut down. Wearing a mask is a small thing to ask. Mayor Keener had a conference call with Congressman Amodei about being in the Red Zone. He commented on that call about how long it takes to get test results back. We have one testing unit that gives results quickly in our community. He was hoping we could get more of them.

Councilwoman Simons said there are people that do not want to wait for the test results so they go out and then get their test results later. You are supposed stay home until you get your results but people are not wanting to do that.

Mayor Keener thought 14 days is a long time to be waiting for test results. If you go to APlus Urgent Care and pay for the test, you can get test results back in three days. He had the opportunity to have lunch with the CEO of NV Energy and discussed some of the issues in the City of Elko. He mentioned there is a fundraiser for the homeless that is being sponsored by Academy Mortgage and being held at Marvel & Marvel Law Office at 217 Idaho Street. He went over the items they are looking to get donated. The City Manager review needs to be completed by Council.

B. City Manager

Curtis Calder mentioned the White House reports that are coming out seem to be running simultaneously with the Governor's Reports. We are in compliance with the Governor's directives. The White House reports have valid recommendations and we are trying to implement the recommendations where we can. It is difficult to change meeting formats when meetings are set so far in advance. If we stay in the Red, future meetings may go back to virtual meeting formats. If we go back to yellow then we can continue to do it this way. We are trying to stay in compliance with open meeting law but it can be difficult to manage.

C. Assistant City Manager

D. Utilities Director

E. Public Works

Dennis Strickland reported on the progress on Cedar Street. The contractor is doing a great job. All the work on the School District side of the project should be completed today. There is still some work that needs to be done on Country Club. We are not scheduled to pave until September. He touched on staffing and new hires. He thanked his guys for all their hard work.

F. Airport Manager

G. City Attorney

H. Fire Chief

Jack Snyder reported the volunteers have been busy helping out the County at some of the recent fires. They received their new radios and everyone is super happy with them.

I. Police Chief

Chief Trouten reported there was a child hit while skateboarding. The incident occurred on a public street. He encouraged the public to pay attention. There was an OHV incident just yesterday. There were children on board and there were injuries even though the children were wearing helmets. The second

Special Session should be beginning soon and he encouraged the public to contact their legislatures and let them know we don't want all these changes. Regarding COVID restrictions, there were some concerns with businesses in town that are not complying and they are not heeding warnings. We may have to take this to the next step at the next Council Meeting.

- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director

Jan Baum reported they will be submitting the High Level Expenditure Plan to the State for the CARES Relief tomorrow. This report needed to be in ASAP without a due date. The report that was due August 1st has been extended to September 1st.

Mayor Keener said he understood that she had a conversation with the Governor's Office to see if they were willing to consider some language changes in the application. He thought they were willing to look at it and considering some changes.

Ms. Baum answered they were willing and we will put language in the cover letter that we would be asking for some changes.

Scott Wilkinson said they also indicated that since the changes were substantial enough that they needed to kick it up the ladder a bit. This may delay the funding a bit. We are not sure how long it will get bogged down in reviews.

- N. Parks and Recreation Director

James Wiley gave a shout out to Nevada Gold Mines for loaning the Parks Department some of their interns to help put together bleachers at the Sports Complex. They were a great help.

Mayor Keener said there was a windstorm that blew through the golf course. Was there much damage on the course?

Mr. Wiley answered they lost several trees and they needed to be removed. They have also lost some large branches on the course that have been cleaned up.

Mayor Keener thought pruning would help improve the health of the trees.

Mr. Wiley said they have plans to do more pruning later this summer.

- O. Civil Engineer
- P. Building Official

VII. 5:30 P.M. PUBLIC HEARINGS

- A. Public hearing pursuant to NRS 268.059(1)(a) regarding the fair market value and possible sale at public auction of approximately 3,073 sq. ft. of City-owned property located generally northeast of the intersection of Sewell Drive and Sage Street, designated APN 001-013-018. Discussion and possible motion determining that the fair market value of the property is \$14,500 in accordance with the appraisal of Jason Buckholz of CBRE, Inc., appraiser, and possible adoption of Resolution No. 14-20, a resolution of the Elko City Council finding it is in the best interest of the City to sell APN 001-013-018, and hereby declaring its intention to sell such

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

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

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

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

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

Mayor Keener called for public comment without a response.

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

The motion passed unanimously. (5-0)

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

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

Councilman Schmidtlein recused himself and left the room.

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

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

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

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

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

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

Mr. Barrows answered yes.

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

Mr. Barrows answered he would recommend that.

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

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

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

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

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

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

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

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

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

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

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

information presented during this public hearing, the City Council may take action to name the facility as requested in the petition. JW

James Wiley, Parks and Recreation, explained the process outlined in the policy. We have received 4 comments from the public, all in favor of naming the facility after Linda Trontel. He read the emails into the record (included in packet).

Mayor Keener called for public comment without a response.

**** A motion was made by Councilman Stone, seconded by Councilwoman Simons, to name Field No. 3 at the Elko Sports Complex after Mrs. Linda Trontel, with great honor.**

The motion passed unanimously. (5-0)

IV. APPROPRIATIONS (Cont.)

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

**** A motion was made by Councilwoman Simons, seconded by Councilman Schmidtlein, to approve the general warrants for 2019/2020 and 2020/2021.**

The motion passed unanimously. (5-0)

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

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to approve the Print 'N Copy warrants for both 2019/2020 and 2020/2021.**

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

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

**** A motion was made by Councilwoman Simons, seconded by Councilman Stone, to approve Great Basin Engineering Contractors warrants.**

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

D. Review and possible approval of Canyon Construction Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**** A motion was made by Councilwoman Simons, seconded by Councilman Hance, to approve the Canyon Construction warrants for both 2019/2020 and 2020/2021.**

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

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: **Discussion and possible authorization to request proposals from qualified individuals or firms to provide Golf Professional Services at Ruby View Golf Course, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **CONSENT AGENDA**
4. Time Required: **5 Minutes**
5. Background Information: **Although the current Golf Professional Agreement between the City of Elko and Martin Creek Holdings, LLC was extended to December 31, 2021, the City recently received notice from the Golf Professional that he would be terminating the Agreement one (1) year early (December 31, 2020). A copy of the current agreement and previous RFP has been included in the agenda packet for review. CC**
6. Budget Information:

Appropriation Required: **N/A**
Budget amount available: **N/A**
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Brad Martin**
Jokalari63@yahoo.com

**REQUEST FOR PROPOSALS
GOLF PROFESSIONAL SERVICES**

The City of Elko, Nevada is requesting proposals from qualified individuals or firms to provide Golf Professional Services for Ruby View Golf Course. Golf Professional Services shall include, but not be limited to: 1) operating and managing the clubhouse and pro shop; 2) providing food & beverage concessions; 3) collecting various fees on behalf of the City; 4) regulating golf play; 5) managing golf tournaments; and 6) providing golf lessons and instructions.

Individuals or firms interested in submitting a proposal relating to this service may request a copy of the **Request For Proposals for Golf Professional Services** from the Elko City Clerk's Office, 1751 College Avenue, Elko, Nevada 89801, Telephone (775) 777-7126, FAX (775) 777-7129, or www.elkocity.com.

Proposals are due no later than 5:00 p.m. on Friday, November 4, 2011. One (1) original and four (4) copies of the sealed proposal shall be submitted to:

Elko City Clerk
Attn: RFP GOLF PROFESSIONAL SERVICES
1751 College Avenue
Elko, NV 89801

ELKO CITY COUNCIL

BY: Curtis Calder, City Manager

DIRECTOR OF GOLF/GOLF PROFESSIONAL AGREEMENT

THIS AGREEMENT made and entered into this 1st day of January, 2016 by and between the **City of Elko**, a special charter municipal corporation, hereinafter referred to as “**City**,” and Bradley John Martin **DBA Martin Creek Holdings, LLC**, the **Director of Golf/Golf Professional** hereinafter referred to as “**Golf Professional**”.

RECITALS:

1. The **CITY OF ELKO** owns and operates an eighteen (18) hole municipal golf course known as the RUBY VIEW GOLF COURSE (hereinafter Golf Course); and
2. The **Golf Professional** is a Golf Professional holding a Class A-1 card from the Professional Golfers Association of America; and
3. The parties desire to enter into a contract for the period of January 1, 2016 through December 31, 2019, with a two (2) year extension option, all in accordance with the provisions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions and undertaking contained herein, the parties agree as follows:

ARTICLE 1 TERM OF AGREEMENT

Section 1.1 Golf Professional hereby is assigned, and does accept, the exclusive privilege and responsibility to operate, manage and oversee the Ruby View Golf Course and related facilities, and to act as, be, and perform the duties of the Director of Golf/Golf Professional of said Golf Course, all in accordance with the provisions of this Agreement, for the term from January 1, 2016 through December 31, 2019 subject to extension and/or earlier termination as provided herein.

Section 1.2 Golf Professional shall operate and manage the Golf Course and otherwise conduct himself in the performance of this Agreement in accordance with Rules and Regulations established by the City, and with the Code of Ethics of the Professional Golf Association (“PGA”).

Section 1.3 In addition, Golf Professional does accept, the exclusive privilege and responsibility to operate and manage a golf pro-shop, food concession business, cocktail lounge facility and video gaming equipment at the Ruby View Golf Course Clubhouse, subject to the conditions contained herein, which premises are hereinafter referred to as the “Clubhouse.”

ARTICLE 2
RESOURCES TO BE PROVIDED BY THE CITY

Section 2.1 The City shall provide and maintain:

- (a) The 18 hole golf course, a driving range, practice greens and greens maintenance facilities (all of which together are referred to herein as “Golf Course”);
- (b) Golf cart storage sheds, clubhouse, parking lot, and surrounding fence and gate (all of which together are referred to herein as “Structures”);
- (c) Fixtures, furniture and appurtenances per attached Appendix A; and
- (d) Utility connections, to the Golf Course and Structures.
- (e) An operational fire extinguisher system, including required certifications, over the cooking area in the Clubhouse.
- (f) Gas or electric power golf cart fleet. City Staff will be responsible for performing annual golf cart maintenance, repairing major mechanical failures, and performing monthly “in-season” checks of oil and/or battery levels.
- (g) An electronic security system for the clubhouse and golf cart storage sheds.

ARTICLE 3
RESOURCES TO BE PROVIDED BY THE GOLF PROFESSIONAL

Section 3.1 The Golf Professional shall provide:

- (a) For Rental by the Public. Hand carts, golf clubs, driving range golf balls, and other equipment necessary to play golf - all in varieties and quantities sufficient to meet reasonable demand;
- (b) For Sale to the Public. Inventories of golf merchandise, supplies, clubs, bags, clothing, shoes, and other golf equipment; all in quantities and varieties sufficient to meet reasonable demand, and appropriate for the operation of a first class municipal golf shop. The rental fees and sale prices for the above golf equipment and merchandise shall be no higher than those prevailing for similar equipment and merchandise in similar golf courses in the surrounding area.

- (c) For Storing, Displaying, Advertising or Demonstrating Golf Equipment and Merchandise. Such counters, showcases, signs or other fixtures which Golf Professional deems to be necessary or appropriate, to supplement those provided by the City. The Golf Professional shall not install any additional booths, stands, fixtures, mobile units or any other equipment in connection with the business covered by this Agreement without the specific written consent of the City Manager. The City shall provide display cases, counters, tables and chairs, which are included on the attached Appendix A.
- (d) Cash registers and credit/debit card machines for processing and recording transactions and collections of various membership, storage, usage, cart path, greens fees, rental and other fees and sales revenues.
- (e) For serving the public. Such human resources as are needed to assist the Golf Professional in the performance of his duties

ARTICLE 4 DUTIES OF THE GOLF PROFESSIONAL

The Golf Professional shall devote his entire professional attention, time and effort to the successful fulfillment of his responsibility to manage, operate and oversee the Ruby View Golf Course, including (but not necessarily limited to) performance of the following duties:

- Section 4.1** Managing and overseeing the operation of the Golf Course Clubhouse and other resources in accordance with Rules and Regulations established by the City, and in a manner which combines efficient use of resources, and an emphasis on public/ customer service.
- Section 4.2** Processing and recording the collection of all fees and revenues related to the operation and use of the Golf Course and Clubhouse and depositing such fees and revenues collected on behalf of the City, along with pertinent records, at City Hall each day, or in such other place and time frame as may be directed by the City Manager or duly authorized designee.
- Section 4.3** Providing all services related to the promotion and regulation of golf play and player conduct, including taking or assignment of tee time reservations, performing starter services, and encouraging or enforcing compliance with Rules and Regulations.
- Section 4.4** Providing golf lessons and instructions, and any other services customarily provided by a Golf Professional certified by the Professional Golf Association ("PGA").

- Section 4.5** Operating and managing a first class municipal Golf Shop, including but not limited to rental of golf equipment and sale of golf merchandise.
- Section 4.6** Managing or assisting the promotion and staging of public and private golf tournaments at Ruby View Golf Course. Golf tournaments, fundraisers, and/or charity events shall be coordinated and organized to make efficient use of the course. Between June 1st and August 31st, weekend and/or holiday tournaments, fundraisers, and/or charity events shall generate a minimum of 80 green fees (or combination of green fees and tournament pass play). The Ruby View Men's and Women's Golf Association tournaments are exempt from the 80 green fees minimum.
- Section 4.7** At all times, and at his own expense, the Golf Professional will keep the entire clubhouse, including all stands, display cases, bar area, fixtures and equipment in a clean, sanitary and orderly condition, and good state of repair, and shall conduct the food concession and cocktail lounge in accordance with all Federal, State, City and local health department rules, regulations, statutes and ordinances. It is expressly understood that the entire premises are open to inspection at all times by the City Manager or by inspectors authorized by the City Manager or authorized by Federal or State law.
- Section 4.8** Golf Professional shall make sure that the Clubhouse facilities, interior and exterior are maintained in a clean and orderly condition at all times. Although the City will provide all required janitorial supplies and 2 x per week janitorial services at no cost, Golf Professional shall be expected to perform occasional janitorial and light maintenance services for the Clubhouse, which may include cleaning the restrooms and/or windows on an as-needed basis when the Clubhouse is open for business. The Golf Professional shall be allowed to utilize City equipment when shampooing carpets. Interior painting shall be the responsibility of the City.
- Section 4.9** Golf Professional shall be responsible for security of said facilities in accordance with the Rules and Regulations, operation, maintenance and any suggested improvements for the Golf Course and related Structures.
- Section 4.10** Golf Professional shall be responsible for the following golf cart fleet activities:
- (a) Daily staging, charging, and fueling the golf cart fleet.
 - (b) Daily cleaning and visual inspection of the golf cart fleet.
 - (c) Performing minor maintenance, including, but not limited to:

- 1) Checking tire pressure and adjusting as necessary; and
 - 2) Repairing and/or changing tires as necessary; and
 - 3) Performing minor battery maintenance as necessary.
- (d) Responding to disabled rental carts on the course.
 - (e) Towing disabled carts to the Golf Course Maintenance Building.
 - (f) Notifying City Staff of golf cart maintenance problems.

ARTICLE 5

OPERATION OF THE CLUBHOUSE BY THE GOLF PROFESSIONAL

Section 5.1 Golf Professional shall have the right to sell any food, alcoholic and non-alcoholic beverages or refreshments of any kind, and shall have the right to install or keep upon the premises any machines used for the vending of goods, wares or merchandise, upon prior approval of the City Manager or duly authorized designee.

Section 5.2 Golf Professional shall provide food service consistent with, but not limited to, that provided by similar golf courses.

Section 5.3 Golf Professional will be given the exclusive right to cater food and supply meals for special events and special group activities conducted at said Clubhouse.

Section 5.4 Golf Professional shall maintain a sufficient inventory of food stuffs, alcoholic and non-alcoholic beverages, so as to avoid shortages of such products.

Section 5.5 Golf Professional may provide and operate 5 video gaming machines in the Clubhouse. These machines are the property of the Golf Professional and shall be removed upon termination of this agreement.

ARTICLE 6

TIME AND HOURS OF OPERATION

Section 6.1 In general, hours of operation of the golf course shall be open from March 1, through October 31. By March 1 of each year, and from time to time as appropriate to reflect any changes, the Golf Superintendent shall furnish the City Manager a schedule setting forth the hours during the year when said golf course shall be open for play. Such schedule shall be subject to mutual agreement and approval of the City Manager and the Golf Professional. The Golf Shop and Driving Range shall be kept open whenever the Golf Course is open for play. The Golf Professional or his assistants shall be available at all such scheduled times to give lessons and instructions in golf, and to serve the public.

Section 6.2 Opening and Closing Hours of the Clubhouse. In general, the opening and closing hours of the Clubhouse shall be compatible with the operation of the Golf Shop. In the event there is little or no demand for clubhouse and/or golf shop services during any given day, Golf Professional may, at his discretion, close at an earlier time. The Clubhouse may be open November 1 through the last day of February at the discretion of the Golf Professional, subject to Section 9.4 of this Agreement.

Section 6.3 Rules and Regulations. The City, in conjunction with the Golf Professional, shall promulgate all necessary Rules and Regulations for the operation of the Golf Course, including the Golf Shop, driving range, practice greens and areas contained therein. A copy of said Rules and Regulations shall be provided to the Golf Professional, posted at the Clubhouse. A copy shall be placed on file with the Elko City Clerk.

ARTICLE 7 BOOKS AND RECORDS

The Golf Professional shall:

Section 7.1 Keep books of accounts and records in accordance with generally accepted accounting principles, reflecting all transactions in the purchase and sale of range balls, food and beverages, merchandise, and repair of equipment and agrees to make them available for inspection and/or audit by the City at its expense at reasonable times.

ARTICLE 8 RECEIPTS AND ACCOUNTING

Golf Professional's collection of receipts and accounting shall be governed by the following provisions:

Section 8.1 Golf Professional shall process, through his cash register in a manner to be prescribed by City, all monies collected on behalf of the City, including but not limited to all seasonal, monthly and other pass fees, greens fees, golf cart rental fees, private golf cart storage fees, and private golf cart usage (path) fees. Golf Professional shall operate and maintain a credit/debit card machine for accepting electronic payments. Golf Professional may retain up to 3% of all credit/debit card payments to compensate for merchant fee transaction costs. All fees received or collected on behalf of the City shall be held by Golf Professional in a fiduciary capacity, and Golf Professional shall not make any personal or other use of the same. Said fees collected on behalf of the City shall be deposited daily in an account or place as designated by the City. Golf Professional shall be held strictly liable for all cash shortages. The Golf Professional or other authorized PGA accredited staff shall sign all passes. A list of PGA staff names shall be provided to the City by the Golf Professional.

Section 8.2 Golf Professional shall receive and be entitled to keep all revenues from Clubhouse Operations. Clubhouse Operations shall include the driving range, the rental of all golf clubs and golf equipment, golf hand carts, golf lessons, storage and maintenance of golf clubs, all receipts from the sale of golf equipment and golf merchandise, and all receipts from café and bar operations. The Golf Professional shall have the exclusive right to salvage all golf balls from any water hazards on the Golf Course.

ARTICLE 9 PAYMENT TO CITY AND UTILITY FEES

Section 9.1 Clubhouse Concessions Fee. For the privilege of the exclusive use of the Clubhouse granted hereunder, the Golf Professional shall pay to the City of Elko a monthly concession fee for the clubhouse for the months of March through October of each year of this Agreement.

Section 9.2 The monthly concession fee shall be \$1,350 per month, beginning in March of 2016, and shall increase by 3% each subsequent year, as demonstrated below, regardless of the increase in the U.S. Government Consumer Price Index:

March 2016: \$1,350 per month x 8 months
March 2017: \$1,391 per month x 8 months
March 2018: \$1,433 per month x 8 months
March 2019: \$1,476 per month x 8 months
March 2020: \$1,520 per month x 8 months (if Agreement is extended)
March 2021: \$1,566 per month x 8 months (if Agreement is extended)

Section 9.3 The parties acknowledge that the City has received from Golf Professional \$300.00 as a cleaning and maintenance deposit. Said cleaning and maintenance deposit shall be refundable at the end of the term hereof, subject to any deduction for any maintenance and cleaning required to carry out terms and conditions hereof.

Section 9.4 Golf Professional shall pay 50% of all utility charges pertaining to the operation of the Clubhouse which are assessed to and paid by the City between the dates of March 1 and October 31. This shall include, but not be limited to electricity, telephone, gas, solid waste disposal, grease rendering, television, water and sanitary sewer charges. The Golf Professional shall not be responsible for utility charges if the Clubhouse remains closed for the season (typically between the dates of November 1 through February 28). In the event the Clubhouse is open between the dates of November 1 through February 28, the Golf Professional shall pay the differential increase in all above referenced utility charges.

Section 9.5 All concession and utility fees shall be paid to the Elko City Finance Department at 1751 College Avenue, Elko, Nevada. All payments shall be made within 30 days of invoice.

ARTICLE 10 PAYMENTS TO GOLF PROFESSIONAL

Section 10.1 The City shall pay to Golf Professional as an independent contractor, the gross sum of \$5,658 per month, effective January 1, 2016. The City shall not provide Worker's Compensation Insurance Coverage, Retirement Benefits ("PERS"), Health Insurance Benefits or Life Insurance Benefits to the Golf Professional since he is an independent contractor.

Section 10.2 Commencing with the first (1st) anniversary of this contract and each anniversary date thereafter, the payment by the City to the Golf Professional shall be adjusted upward by 3%, regardless of the percentage change in the U.S. Government Consumer Price Index.

Section 10.3 In addition to the above compensation, the City will pay \$15,000 annually to the Golf Professional as a contribution to the payment of fees or salaries to Assistant Golf Professionals. The \$15,000 annual contribution by the City is contingent upon the Golf Professional: (1) using the funds solely to pay his Assistant Golf Professionals, and (2) providing to the City an annual accounting showing that said funds were properly used.

Section 10.4 The City agrees to discuss upgrades to the existing Golf Course Management Software and/or Hardware, including possible financial participation. Parties agree that the purpose of upgrading such software and/or hardware is to simplify the daily accounting process, capture lost revenue, and track play for statistical purposes.

Section 10.5 Parties agree that only the Golf Professional and Assistant Golf Professionals described in Section 10.3 will receive golf privileges as part of their inherent job duties. However, the City shall provide the Golf Professional with twenty (20) employee passes (restricted), at a value of \$3,000 annually. Employee passes are intended to provide restricted golfing privileges for employees of the Golf Professional only. All rounds played shall be recorded in the same manner as other pass play. Employee pass holders shall be entitled to a 50% discount on golf cart rentals. Any additional employee golf privileges shall be at the Golf Professional's expense and accounted for in accordance with Section 8.1.

Section 10.6 The City shall allow courtesy golf privileges for verified PGA Golf Professionals and GCSAA Golf Superintendents. All rounds played shall be recorded in the same manner as other pass play. PGA Golf Professionals and GCSAA Golf Superintendents shall be entitled to a 50% discount on golf cart rentals. Any additional PGA and/or GCSAA related golf privileges shall be at the Golf Professional's expense and accounted for in accordance with Section 8.1.

Section 10.7 In consideration for activities performed by the Golf Professional in Section 4.10, the City shall pay to Golf Professional 20% of all gross golf cart rental revenue, as submitted by the Golf Professional.

ARTICLE 11 MEMBERSHIP IN ORGANIZATION; PREFERENTIAL TREATMENT FORBIDDEN

Section 11.1 Golf Professional shall not become an officer or member of any golf club or organization of golfers formed or to be formed at the Golf Course or of any organization in which participation would conflict with the orderly and efficient operation of said Golf Course. Golf Professional shall not, in the operation of said Golf Course, and particularly in the granting of starting times or playing privileges, grant any preferential treatment to any individual or group of individuals except as authorized by the Rules and Regulations pertaining to said Golf Course.

ARTICLE 12 OTHER DUTIES OF THE GOLF PROFESSIONAL

Section 12.1 Licenses, Permits and Taxes. Golf Professional shall obtain any and all permits, business, health and liquor licenses or other licenses, which may be required by law to conduct his operation. Golf Professional shall pay sales tax, property tax, and income tax, which may be assessed against him and his business equipment and/or merchandise in the operation of his business under this Agreement.

Section 12.2 Employees. The Golf Professional may employ, at Golf Professional's expense, such employees as are considered necessary in operating the Clubhouse and providing golf professional services in an efficient and orderly manner; provided, that if any person employed by Golf Professional is not satisfactory to the City, Golf Professional agrees to consult with the City with regard to any action to be taken concerning said employee. Golf Professional shall comply with all applicable state and federal requirements which pertain to individuals employed by him.

Section 12.3 Fire Insurance. All fire insurance maintained by the City upon the Golf Course and related structures shall be for the sole benefit of the City. Golf Professional agrees to hold City harmless from any loss sustained by fire to Golf Professional's business operations, income, inventory, machinery, fixtures, equipment, merchandise or other personal property.

Section 12.4 Securing the Buildings. The Golf Professional shall be responsible for securing the clubhouse after normal working hours, including but not limited to the locking of all doors. The Golf Professional shall hold the City harmless and be responsible to the City for losses or damages resulting from open facilities after business hours.

ARTICLE 13 LIABILITY INSURANCE

The Golf Professional shall procure and keep in force during the term hereof a public liability insurance policy written by a company authorized to do business in the State of Nevada, insuring against any loss or a liability for damages to persons or property which might result from the operation upon the golf course and its premises as herein provided, with limits of not less than one-million (\$1,000,000.00) dollars for injury to one person and one-million (\$1,000,000.00) dollars for injury to more than one person, together with one-million (\$1,000,000.00) dollars products liability insurance. Such policies shall include the City as an additionally named insured with a specific provision for thirty (30) days advance notice of cancellation to all named insureds. A copy of the insurance policy or policies shall be delivered forthwith to the City. The City shall have the right, with or without cause, to disapprove the company or companies from which the Golf Professional secures the policy or policies of insurance as herein provided.

ARTICLE 14 HOLD HARMLESS AND DEFENSE

The Golf Professional shall indemnify, hold harmless and defend the City and any of its officers, agents or employees from any claim or cause of action of any kind, character or nature from any person, persons, entity or organization which may arise out of the use of the premises in connection with the Golf Professional's operation of the concession, golf course or other activities as herein provided. The City shall not be liable for concessionaire losses which result from the condition of the golf course or facilities.

ARTICLE 15 INDEPENDENT CONTRACTOR AND RELATIONSHIP WITH THE CITY

Section 15.1 The Golf Professional understands and agrees that this agreement is not a contract of employment, and that the relation of master and servant, employer and employee does not exist between the City and the Golf Professional or with any of his employees nor that of partners or joint venturers. Nothing herein contained shall be construed as incurring for the City any liability for FICA, withholding tax, unemployment compensation or any other payment not specifically set forth in this Agreement that would be required if Golf Professional were standing in an employer-employee relationship. Golf Professional agrees to assume and pay all such liabilities.

Section 15.2 Golf Professional, in performing his services as herein provided, shall keep informed the City Manager regarding said Golf Course and structures from time to time and the City shall do likewise.

Section 15.3 Authority of Golf Professional. Golf Professional is not authorized to bind the City to any contracts or other obligations. City shall not be liable for the acts of Golf Professional or his assistants, employees, contractors, customers, or suppliers in performing the duties described herein. It is further agreed that the portion of the Golf Course Clubhouse used by the Golf Professional for the concession operations and that portion used by the Golf Professional for his Golf Professional operation are not leased to him; that the Golf Professional is a licensee and not a lessee thereof; that his right to occupy the same and to operate the concessions and clubhouse hereby granted shall continue only so long as each and all undertakings, provisions, covenants, agreements, stipulations and conditions herein contained on his part are strictly and promptly complied with.

ARTICLE 16 PROVISION RELATED TO EXTENSION OF THIS AGREEMENT

This Agreement may be extended for up to two years past December 31, 2019 if both the Golf Professional and the Elko City Council so agree.

ARTICLE 17 PROVISIONS RELATED TO TERMINATION AND FORFEITURE OF THIS AGREEMENT

Section 17.1 In the event Golf Professional desires to terminate this Agreement, he shall give to the City, a written notice of his desire to terminate no less than 180 days prior to the proposed date of termination.

Section 17.2 In the event of default by the Golf Professional the City shall have the right to terminate this Agreement and Forfeiture all rights of the Golf Professional thirty (30) days after written notice of termination, stating such default, has been served on Golf Professional, in person or by certified mail. For purposes of this Agreement, default includes any of the following:

- (a) that Golf Professional has defaulted on any of the covenants hereby agreed to be performed by Golf Professional;
- (b) if Golf Professional has violated any of the ordinances of the City of Elko or any of the laws or regulations of the City of Elko, County of Elko, State of Nevada or the Federal government;
- (c) if, in the opinion of the City Manager, the Golf Professional, by reason of incapacity or otherwise, is unable to perform his duties for a period exceeding thirty (30) consecutive days; or
- (d) misconduct, dishonesty, incompetence, negligence, inattention or irresponsibility on the part of Golf Professional.

Further, default of this Agreement shall occur if Golf Professional refuses to cooperate with the City Manager or his authorized representatives in connection with compliance or enforcement of the terms of this Agreement, or the Rules and Regulations pertaining to the operation of the Golf Course.

If Golf Professional cures all the stated defaults to the satisfaction of the City Manager within thirty (30) days after receiving written notice of termination of this agreement as herein provided, this agreement may be reinstated by the City Manager, subject to the approval of this agreement of the Elko City Council, in which event this Agreement shall remain in full force and effect until it is terminated. In the event this Agreement is so terminated, it will be lawful for the City to remove all property owned by Golf Professional from the premises, at the sole convenience of the City.

Section 17.3 In the event of termination of this Agreement, the City of Elko shall purchase, at agreed wholesale prices, all golf merchandise with the Ruby View Golf Course logo. The Golf Professional shall submit proof of his purchase costs by invoices and/or other means.

ARTICLE 18 PROVISION RELATED TO EXPIRATION OF THIS AGREEMENT

Upon expiration of this Agreement, the City shall purchase all golf merchandise with the Ruby View Golf Course logo, at agreed wholesale prices. The Golf Professional shall submit proof of his purchase costs by invoices and/or other means.

ARTICLE 19 ADDITIONAL PROVISIONS

Section 19.1 Notices. Any notice to be given or to be served upon any party hereto in connection with this Agreement must be in writing, and may be given by certified or registered mail and shall be deemed to have been given and received 48 hours after a certified or registered letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail, and if given otherwise than by certified or registered mail, it shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notices shall be given to the parties hereto at the following addresses:

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

Director of Golf/Golf Professional:

Bradley John Martin
769 Oak Street
Elko, Nevada 89801

Section 19.2 Entire Agreement. This Agreement embodies and constitutes the entire understanding between the parties hereto with respect to the transactions contemplated herein, and all prior or contemporaneous Agreements, understandings, representations and statements, oral or written are merged into this Agreement.

Section 19.3 Modification. Neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except as provided herein or by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

Section 19.4 Applicable Law. This Agreement shall be governed by, and construed in accordance with the laws of the State of Nevada.

Section 19.5 Headings. Descriptive headings are used in this Agreement for convenience only and shall not control, limit, amplify or otherwise modify or affect the meaning or construction of any provision of this Agreement.

Section 19.6 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns.

Section 19.7 Assignment. Golf Professional shall not have the right to assign his rights under this Agreement without the prior written consent of the City, which consent may be granted or withheld at the sole discretion of the City.

Section 19.8 Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never composed a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement.

Section 19.9 Attorney Fees. If either party defaults in its obligations hereunder, the defaulting party shall pay reasonable attorney's fees incurred by the other party in order to enforce its rights hereunder.

Section 19.10 Multiple Counterparts. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which

constitute collectively one Agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

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

THE CITY OF ELKO

**DIRECTOR OF
GOLF/GOLF PROFESSIONAL**

BY _____
CHRIS J. JOHNSON, Mayor

BRADLEY JOHN MARTIN

ATTEST:

BY _____
SHANELL OWEN, City Clerk

Elko City Council
Agenda Action Sheet

1. Title: **Review, discussion, and evaluation of City Manager's job performance for Fiscal Year 2019/2020, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **PERSONNEL**
4. Time Required: **15 Minutes**
5. Background Information: **Current City policy states that a performance appraisal shall be completed for Appointed Officials each year in July. For the years that are odd numbered, the appraisals are conducted by the City Council for the previous year. For the years that are even numbered, the evaluations are conducted by the City Manager. The exception to this would be the City Manager's appraisal, which is always conducted by the City Council each year in July. SS**
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: **Scoring Matrix of Performance Evaluation Ratings**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Susie Shurtz, Human Resources Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council
Agenda Action Sheet**

1. Title: **Review of the bids received and possible award of the bid for New Scales for the City of Elko Landfill, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Bids were received until 3:00 p.m. local time on August 6, 2020.**
6. Budget Information:

Appropriation Required: **Approximately \$200,000.00**
Budget amount available: **\$200,000.00**
Fund name: **Landfill Capital Equipment Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **A bid tabulation will be provided at the meeting.**
9. Recommended Motion: **Award the bid for the Landfill Scales to _____**

10. Prepared By: **Dennis Strickland, Public Works Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Shane Fertig, Landfill Superintendent**
sfertig@elkocitynv.gov

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization for Staff to solicit bids for the Elko City Swimming Pool Re-Plastering Project, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **The Re-Plastering Project for the Elko City Pool is ready to go out to bid. Construction will begin once the Re-Roofing Project is completed in mid-November of 2020, and will be completed in mid-December of 2020. JW**
6. Budget Information:

Appropriation Required: \$110,000.00
Budget amount available: \$110,000.00
Fund name: Ad Valorem Fund
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Authorization for Staff to solicit bids for the Elko City Swimming Pool Re-Plastering Project.**
10. Prepared By: **James Wiley, Director of Parks and Recreation**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **jwiley@elkocitynv.gov**
James Wiley, Parks and Recreation Director

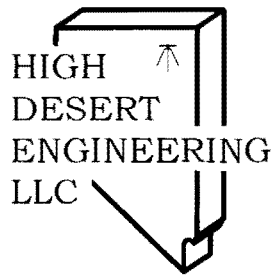
**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible acceptance of Public Improvements for the Tower Hill Unit 2 Subdivision, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **SUBDIVISION**
4. Time Required: **10 Minutes**
5. Background Information: **The City Council approved Final Map 14-18 on March 26, 2019. A Performance and Maintenance Agreement was entered into on that same day.**

The Developer has completed the Public Improvements in accordance with the approved plans. The City is in receipt of the required Certification of the project by the Engineer of Record. Upon acceptance of the Public Improvements by the Council, the Developer is required to provide maintenance security in the amount of \$93,105.60 for a 12-month maintenance period, which has already been received. 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: **Project Certification by Thomas Ballew, P.E., – High Desert Engineering**
9. Recommended Motion: **Acceptance of Public Improvements for the Tower Hill Unit 2 Subdivision.**
10. Prepared By: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **None**
12. Council Action:
13. Council Agenda Distribution: **Jordanelle Third Mortgage, LLC
Attn: Scott MacRitchie
312 Four Mile Trail
Elko, NV 89801
scott@macritchie.com**

Thomas C. Ballew, P.E., P.L.S.
Robert E. Morley, P.L.S.
Duane V. Merrill, P.L.S.



Consulting Civil Engineering
Land Surveying
Water Rights

August 4, 2020

Michele Rambo, Development Coordinator
City of Elko
1751 College Avenue
Elko, NV 89801

Re: Tower Hill Subdivision – Unit 2

Dear Michele,

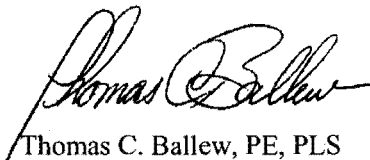
Please be advised that the punch list items listed below have now been completed and have been inspected by Dennis Strickland from the City of Elko Street Department:

- Repair of rock pockets, microcracks, irregularities, and other damage to the street asphalt on all streets.
- Repair low area of asphalt at the seam on Deerfield

Certification:

Based on inspections and testing performed by High Desert Engineering, LLC, and Thurston Testing Laboratory, I hereby certify that, to the best of my knowledge, the public improvements for this project have been constructed in substantial conformance with the approved project plans and specifications.

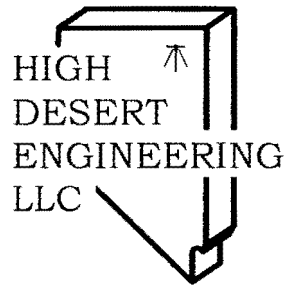
Sincerely,
High Desert Engineering, LLC



Thomas C. Ballew, PE, PLS

cc Scott MacRitchie, Jordanelle Third Mortgage
Steve Dorsa, Ruby Dome, Inc.

Thomas C. Ballew, P.E., P.L.S.
Robert E. Morley, P.L.S.
Duane V. Merrill, P.L.S.



Consulting Civil Engineering
Land Surveying
Water Rights

December 20, 2019

Michele Rambo, Development Coordinator
City of Elko
1751 College Avenue
Elko, NV 89801

Re: Tower Hill Subdivision - Unit 2

Dear Michele,

High Desert Engineering, LLC, with assistance from Thurston Testing Laboratory, has provided the Quality Assurance Inspections and Quality Control Testing for Tower Hill Subdivision, Unit 2.

Based on a review of the inspections and testing performed by High Desert Engineering, LLC, and Thurston Testing Laboratory, I hereby certify that, to the best of my knowledge, the public improvements shown as complete for this project were constructed in substantial conformance with the approved project plans and specifications.

Work on this project has been performed by the following:

Ruby Dome, Inc. – General Contractor:	Earthwork Installation of underground utilities Installation of all base aggregates
Staker-Parsons:	Placement of asphalt cement pavement
Pusher Concrete, Inc.:	Installation of curb & gutter
Skyline Construction:	Installation of sidewalk

In addition, materials for this project have been supplied by the following:

Staker-Parsons:	Asphalt Cement Concrete Base Aggregates Bedding Aggregates
-----------------	--

3D Concrete:	Portland Cement Concrete
Humboldt Vega, LLC:	Portland Cement Concrete
Silver State Rock Products	Portland Cement Concrete

Work on this project began the week of June 3-7, 2019.

Work Completed:

Work completed on this project, as of the date of this report, is shown in the spreadsheet contained in the attached Appendix A. A summary of the work not complete at this time is as follows:

- Installation of aggregate base on secondary access. This work is approximately 75% complete at this time.
- Installation of PCC sidewalk. This work is approximately 90% complete at this time. The results of compression testing, however, are not yet available. Therefore, for the purposes of this certification, this work is being shown as 0% complete.
- Backfill behind sidewalks. This work is approximately 25% complete at this time and is dependent on the completion of the sidewalks.
- Installation of property corners. Rear property corners are in place. Remaining work consists of placing the front property corners. This work is dependent on the completion of the backfill behind the sidewalks.
- General cleanup.

Inspection Reports:

Inspection reports for the project, prepared by High Desert Engineering, LLC and Thurston Testing Laboratory, are contained in Appendix B.

Earthwork:

Mass grading for this project was previously completed. Earthwork on this project consisted of subgrade preparation, trench backfill and bedding, placement of aggregate base materials, and backfill behind sidewalks.

Earthwork testing on this project consisted of the following:

- Compaction Characteristics of Soil (ASTM D1557)
- Sieve Analysis of Fine and Coarse Aggregates (ASTM C136)
- Liquid Limit, Plastic Limit and Plasticity Index of Soils (ASTM D4318)

Results of the above referenced testing are contained in Appendix C.

Portland Cement Concrete:

Portland cement concrete was used on the project for the construction of curbs, gutters, valley gutters and sidewalk.

Portland cement concrete testing on this project consisted of the following:

- Making and Curing Concrete Test Specimens (ASTM C31)
- Compressive Strength of Cylindrical Concrete Specimens (ASTM C39)
- Slump of Hydraulic Cement Concrete (ASTM C143)
- Air Content of Freshly Mixed Concrete (ASTM C173)
- Temperature of Freshly Mixed Concrete (ASTM C1064)

Results of the above referenced testing are contained in Appendix D.

Asphalt Cement Concrete:

Asphalt cement concrete was used on the project for the construction of the public streets.

Asphalt cement concrete testing on this project consisted of the following:

- Extraction of Asphalt Binder from Asphalt Mixtures (ASTM D2172)
- Sieve Analysis of Fine and Coarse Aggregates (ASTM C136)
- Bulk Specific Gravity and Density of Compacted Asphalt Mixtures (ASTM D2726)
- Density of Bituminous Concrete in Place by Nuclear Methods (ASTM D2950)

Results of the above referenced testing are contained in Appendix E.

In addition to the above, the finished asphalt pavement was cored to determine in place thicknesses. Results of these measurements are also contained in Appendix E.

Underground Utilities:

Underground utilities installed on this project are as follows:

- Water Mains and Laterals
- Sanitary Sewer Mains and Laterals
- Storm Sewer Mains and Laterals
- Power, Telephone, Cable Television and Natural Gas

Page 4

Testing on these utilities was done as follows:

- Pressure testing of water mains and laterals in accordance with Chapter 336 of the Standard Specifications for Public Works Construction, 2016 Edition (Orange Book).
- Bacteria testing of the water mains conducted by the City of Elko Wastewater Treatment Laboratory
- Mandrel test of sanitary sewer mains in accordance with Chapter 336 of the Standard Specifications for Public Works Construction, 2016 Edition (Orange Book).
- Pressure testing of sanitary sewer mains and laterals in accordance with Chapter 336 of the Standard Specifications for Public Works Construction, 2016 Edition (Orange Book).

Results of the above referenced testing are contained in Appendix F.

Miscellaneous Work:

Miscellaneous work on this project consisted of the following:

- Installation of Street Light Bases
- Installation of Stop & Street Signs
- Installation of Street Monuments and Property Corners

The street lights bases for the project were installed by Ruby Dome, Inc. while the poles and lights were installed by NV Energy.

The stop and street signs were installed by Ruby Dome, Inc.

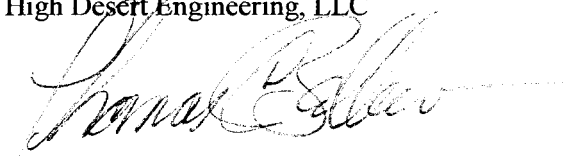
The street monuments were installed by Ruby Dome, Inc. and punched by High Desert Engineering, LLC.

The property corners were set by High Desert Engineering, LLC.

As-Built Mapping:

Appendix G contains the utility as-built mapping for this project.

Sincerely,
High Desert Engineering, LLC



Thomas C. Ballew, PE, PLS

cc Scott MacRitchie, Jordanelle Third Mortgage
Steve Dorsa, Ruby Dome, Inc.

**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Revocable Permit No. 3-20, filed by Patray Assets LLP., to occupy approximately 54 square feet of the Commercial Street Right-of-Way adjacent to their parcel located at 524 Commercial Street to accommodate a handicap ramp, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **The applicant recently built the handicap ramp and was notified by the City of Elko that the ramp is within the Right-of-Way. 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: **License agreement and Application**
9. Recommended Motion: **Approve Revocable Permit No. 3-20 subject to the execution of a Standard License Agreement between the applicant and the City of Elko.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Patray Assets, LLP.
425 Rocky Road
Elko, NV 89801**

REVOCABLE LICENSE AGREEMENT FOR OCCUPANCY OF RIGHT-OF-WAY

THIS REVOCABLE LICENSE AGREEMENT FOR OCCUPANCY OF RIGHT-OF-WAY (hereinafter the "License Agreement") is made this ____ day of _____, 2020 (hereinafter the "Effective Date"), by and between the **CITY OF ELKO**, a municipal corporation and political subdivision of the State of Nevada, hereinafter called the "**City of Elko**," and **PATRAY ASSETS, LLP**, a Nevada limited-liability partnership, hereinafter called the "**Licensee**."

RECITALS

A. **Licensee** owns property located generally at 524 Commercial Street, Elko, Nevada; and

B. **Licensee** desires to install a handicap ramp in approximately 54 square feet of the Commercial Street right-of-way, located generally on the southeast side of Commercial Street between 5th and 6th Street, more particularly described in the legal description attached hereto as Exhibit A, hereinafter called the "Right-of-Way,"; and,

C. **Licensee** seeks from the **City of Elko** a revocable license to use portions of the Right-of-Way for the purpose of installing a handicap ramp shown on the site plan attached hereto as Exhibit B.

NOW, THEREFORE, in consideration of the rights and obligations contained herein, it is agreed as follows:

The **City of Elko** shall, subject to the terms and conditions contained herein, permit **Licensee** to use the Right-of-Way for the purposes set forth in this License Agreement.

The parties hereto further covenant and agree as follows:

1. **TERM:** The term of this License Agreement shall be one (1) month, commencing on the Effective Date, which shall be the date of execution by the **City of Elko**. The **City of Elko** may, upon request by the **Licensee** and in the sole discretion of the **City of Elko**, extend the term of this License Agreement from month-to-month thereafter.

Notwithstanding the foregoing, the **City of Elko** may revoke this License Agreement for any reason permitted hereunder prior to the expiration of the term or any extension thereof.

In the event of the termination of the license granted hereunder by the expiration of the term or an extension thereof, or upon notice for any other reason permitted hereunder, **Licensee** shall promptly, peaceably and quietly leave, surrender and yield to the **City of Elko** the Right-of-Way in good order, condition and repair.

2. **WAIVER:** Waiver by the **City of Elko** of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, condition or covenant or any subsequent breach of the same, or any other term, condition or covenant herein contained.

3. **NOTICE:** Any and all notices or demands by or from the **City of Elko** to **Licensee**, or from the **Licensee** to the **City of Elko** shall be in writing. They shall be served either personally or by certified mail, return receipt requested. If served by certified mail, return receipt requested, the service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice or demand is to be given and the issuance of a receipt thereof. Any notice or demand to the **City of Elko** may be given to the City of Elko at 1751 College Avenue, Elko, Nevada 89801, or at such other place or places as shall be designated by the **City of Elko** from time to time. Any notice or demand to **Licensee** shall be given to: Patray Assets, LLP., 425 Rocky Road, Elko, NV 89801.

4. **IMPROVEMENTS, REPAIRS, MAINTENANCE AND USE OF THE PROPERTY:**

(a) **Licensee** shall have the license to enter upon and occupy the Right-of-Way to install a handicap ramp, at its own expense, according to the approved site plan attached hereto as Exhibit B, *provided*, **Licensee** must receive the prior consent of the **City of Elko** before entering upon the Right-of-Way and must thereafter act in accordance with its directions.

(b) **Licensee** shall be responsible for maintaining the handicap ramp and related improvements in a clean and orderly manner at all times.

(c) **Licensee** shall secure any permits required in connection with the activities authorized hereunder and shall comply with all applicable federal, state and local laws, ordinances, resolutions or regulations.

(d) The failure of the **Licensee** to comply with any directions given by the **City of Elko** in relation to the use or occupancy of the Right-of-Way, or the failure of the **Licensee** to comply with all federal, state and local laws, ordinances, resolutions or regulations which apply to the Right-of-Way, or the **Licensee's** failure to comply with this License Agreement, shall be grounds for termination of this Licensee Agreement by the **City of Elko**. Any improvements which have been installed by the **Licensee** in the Right-of-Way shall be promptly removed by **Licensee**, at its own expense and in a workmanlike manner, upon request by the **City of Elko** following revocation or termination hereof.

5. **RIGHT OF ENTRY:** The **City of Elko** specifically reserves the right of entry upon the Right-of-Way by any authorized officer, engineer, employee, agent or contractor of the **City of Elko** at any time and for any and all purposes.

6. **INDEMNIFICATION:** Notwithstanding any other provision contained herein, **Licensee** hereby agrees to hold harmless, indemnify and defend the **City of Elko**, including, without limitation, the **City of Elko's** agents, employees and contractors, against any and all claims, demands, actions, suits, liability, cost and expense, including defense expenses, (to include, without limitation, suits for damages and injuries to persons or property) arising out of **Licensee's** acts or omissions in connection with the activities contemplated by this License Agreement.

7. **TERMINATION:** The **City of Elko** reserves the right to terminate the permission hereby given at any time upon reasonable notice, which shall not be required to exceed thirty (30) days.

8. **GENERAL COVENANTS:**

(a) This License Agreement shall constitute the entire contract between the parties hereto concerning the subject matter hereof.

(b) All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, and assigns, as the case may be, of the

respective parties, *provided*, under no circumstances shall **Licensee** assign its rights or obligations hereunder without the prior written consent of the **City of Elko**.

(c) As used herein, the terms the **City of Elko** and **Licensee** shall include the plural as well as the singular, and the feminine as well as the masculine and the neuter.

(d) The provisions of this license may only be altered, changed or amended by mutual written consent of the parties hereto, in accordance with the provisions and procedures herein contained.

(e) Any claim made by **Licensee** arising out of any act or omission by any officer, agent or employee of the **City of Elko** in the execution or performance of this License Agreement will be made against **City of Elko** and not against the officer, agent or employee.

(f) **Licensee** shall require each contractor or subcontractor retained to perform work in the Right-of-Way to agree in its individual contract with **Licensee** not to make any claim against the **City of Elko**, its agents or employees by reason of that contract.

(g) Nothing in this License Agreement shall be construed to give any person, other than the **City of Elko** and **Licensee**, any legal or equitable right, remedy or claim under this Agreement, but it shall be held to be for the sole and exclusive benefit of City and Consultant.

(h) This License Agreement shall be governed by the laws of the State of Nevada and jurisdiction and venue for any legal action shall be the Fourth Judicial District Court in and for Elko County, Nevada.

(i) In the event of any litigation between the parties hereto arising out of this License Agreement, or if one party seeks to judicially enforce the terms of this License Agreement, the prevailing party shall be entitled to an award of all reasonable fees and costs, including, but not limited to, reasonable attorney's fees.

(j) **Licensee** may not assign any of its rights or obligations under this License Agreement.

(k) This License Agreement shall be binding not only upon the parties hereto but also upon their respective heirs, personal representatives, assigns (subject to the limitation on assignment) and other successors in interest.

(l) In the event that any date specified in this License Agreements falls on a 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.

(m) Time is of the essence.

IN WITNESS WHEREOF, the parties hereto have executed this license the day and year first above written.

PATRAY ASSETS, LLP.:

By: _____

Title: _____

By: _____
REECE KEENER, Mayor

ATTEST:

KELLY WOOLDRIDGE, City Clerk

RECEIVED

JUL 29 2020

**AREA FOR REVOCABLE PERMIT
TO OCCUPY CITY OF ELKO PROPERTY
FOR
PATRAY ASSETS LLP**

A parcel of land located in Section 15, Township 34 North, Range 55 East, M.D.B. & M., City of Elko, Nevada, being a portion of Commercial Street more particularly described as follows:

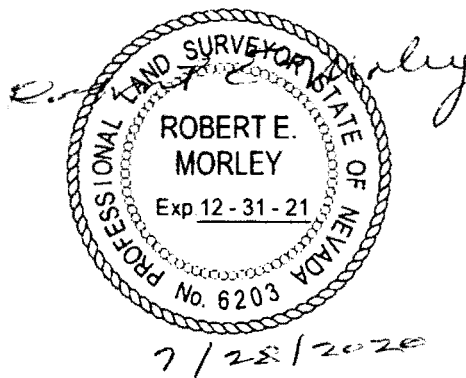
Commencing at the street monument located at the centerline intersection of Sixth Street and Commercial Street from which the street monument located at the centerline intersection of Fourth Street and Commercial Street bears S 41° 58' 05" W, 760.28 feet, thence S 41° 58' 05" W, 251.57 feet along the centerline of said Commercial Street to a point, thence S 48° 01' 55" E, 44.00 feet to Corner No. 1, the True Point of Beginning;

Thence continuing S 48° 01' 55" E, 4.00 feet to Corner No. 2, a point being on the Southeasterly Right of Way of said Commercial Street;

Thence S 41° 58' 05" W, 13.50 feet along the said Southeasterly Right of Way of Commercial Street to Corner No. 3;

Thence N 48° 01' 55" W, 4.00 feet to Corner No. 4;

Thence N 41° 58' 05" E, 13.50 feet to Corner No. 1, the point of beginning, containing 54 square feet, more or less.



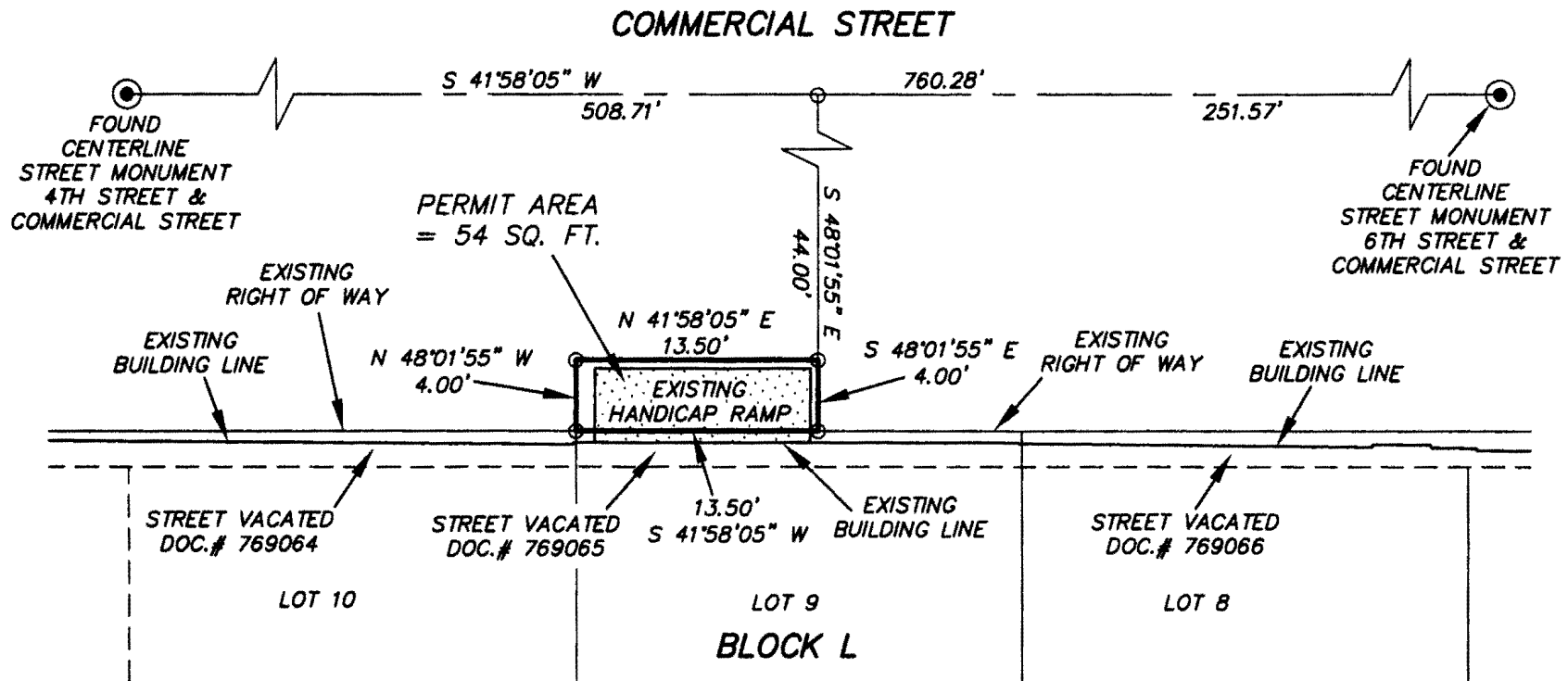
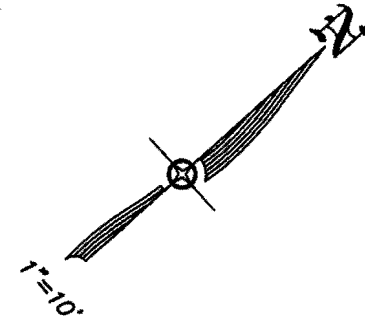
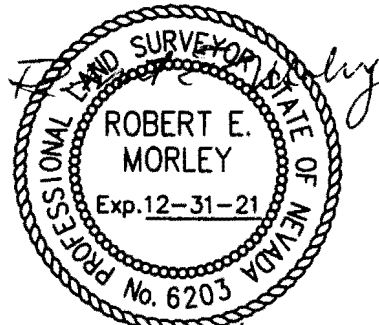
Prepared by Robert E. Morley
High Desert Engineering

640 Idaho Street
Elko, Nevada 89801

RECEIVED

JUL 29 2020

EXHIBIT B
MAP OF AREA FOR
REVOCABLE PERMIT TO
OCCUPY CITY OF ELKO PROPERTY
FOR
PATRAY ASSETS, LLP
CITY OF ELKO, NEVADA





CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue * Elko * Nevada * 89801

(775) 777-7160 * (775) 777-7119 fax

APPLICATION FOR REVOCABLE PERMIT TO OCCUPY CITY OF ELKO PROPERTY

APPLICANT(s):	Patray Assets, LLP		
MAILING ADDRESS:	425 Rocky Road, Elko, NV 89801		
PHONE NO (Home)		(Business)	775 9348520
NAME OF PROPERTY OWNER (If different):			
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:			
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED	(Attach if necessary):		
ASSESSOR'S PARCEL NO.:	001.343.003		
Address	524 Commercial Street, Elko, NV 89801		
APPLICANT'S REPRESENTATIVE OR ENGINEER:	J.D. LONG		

FILING REQUIREMENTS:

Complete Application Form: In order to begin processing the application, an application form must be complete and signed.

Fee: A \$400.00 non-refundable filing fee.

Legal Description: A certified metes and bounds legal description of the boundary of the area to be used by the applicant must be provided.

Plot Plan: A plot plan provided by a properly licensed surveyor drawn to scale showing the proposed boundary lines, proposed structures, signs, landscaping, etc.

Note: One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 1/2" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

Other Information: The applicant is encouraged to submit other information and documentation to support the request.

RECEIVED

JUL 29 2020

Describe the proposed use of the property: 524 COMMERCIAL ST, ENKO, ND 58901

TEMPARY USE OF AN ADA RAMP TO ENTER
THE BUSINESS

(Dimensions) feet X feet (Attach Plot Plan)

(Use additional pages if necessary to address the question)

This area intentionally left blank,

THE APPLICANT HEREBY AGREES TO COMPLY WITH THE FOLLOWING:

1. That if this permit is granted, the applicant agrees that the property involved shall be subject to any utility easements affecting said area, including all existing utility mains, pipelines, laterals, sewer lines, water lines, gas lines, telephone lines, cables, television cables, electrical lines and wires, gas wires, drains and other pipes, wires and cables, and lines now located on, over, under or within said property area, strip or any portion thereof.
2. That if this permit is granted, the applicant hereby agrees that their use of said area shall be only for landscaping, driveways, fences, carports, signs, and any other such similar uses involving non-permanent structures.
3. That the applicant understands and agrees that said permit, if granted, is revocable by the City of Elko, should the City of Elko determine said right-of-way is needed for public use. Revocation of the permit to occupy the right-of-way shall be 30 days from the date of certified mailing to the permit holder, notifying permittee of the City's intent to revoke.
4. That the applicant hereby agrees that the removal and/or relocation of the permittee's improvements, desired to be retained and salvaged by the permittee, shall be the responsibility of the permittee and at the permittee's expense. Any improvements remaining after the 30 day notification period shall be removed by the City of Elko to accomplish the City's plan for public use of said area.
5. That the applicant further agrees to comply with all applicable codes and ordinances pertaining to the applicant's use of said right-of-way.

Applicant / Agent

PATRAY ASSETS, LLP By LERAY REESE
(Please print or type)

Mailing Address

425 ROCKY ROAD
Street Address or P.O. Box

ELKO, NV 89801
City, State, Zip Code

Phone Number:

775 434-8520

Email address:

LERAY@CLEARLYNEVADAPRO.COM

SIGNATURE:

LERAY REESE PRESIDENT of GENERAL PARTNER

FOR OFFICE USE ONLY

File No.: 3-20 Date Filed: 7/29/20 Fee Paid: \$400 CV# 002421



City of Elko – Development Department
1755 College Avenue
Elko, NV 89801
Telephone: 775.777.7210

July 13, 2020

RECEIVED

JUL 29 2020

Patray Assets LLP
425 Rocky Road
Elko, NV 89801

Re: Violation of City Code – 524 Commercial Street, Elko NV

To Whom It May Concern:

The City of Elko has become aware that a ramp was built in front of your building located at 524 Commercial Street. This ramp was constructed without the required permits from the City of Elko. These permits include:

1. Building Permit issued by the City of Elko Building Department
2. Revocable Permit to Occupy City Right-of-Way processed by the City of Elko Planning Department and approved by the City Council.

Until these permits are issued, the ramp is considered to have been built illegally. You may either apply for the permits listed above or remove the ramp.

Please contact both the Building Department and the Planning Department within 10 days of receipt of this letter. Allowing the property to stay in the current condition constitutes a violation of the municipal code and may lead to civil action by the City of Elko.

Please contact me at (775) 777-7217 if you have any questions and to confirm your compliance.

Sincerely,

Michele Rambo, AICP
Development Manager
mrambo@elkocitynv.gov

*SHIEL BY Planning
@ City
775 777-7160*

CC: Current Occupant
524 Commercial Street
Elko, NV 89801

City of Elko – File
City of Elko – Scott Wilkinson, Assistant City Manager
City of Elko – Ty Trouten, Chief of Police
City of Elko – Jeff Ford, Building Official
City of Elko – Cathy Laughlin, City Planner

Post Ramp



From: LeRay Reese leray13reese@gmail.com
Subject: Picture
Date: Jul 22, 2020 at 9:45:29 AM
To: LeRay Reese leray13reese@gmail.com

RECEIVED

JUL 29 2020

PRE RAMP



**Elko City Council
Agenda Action Sheet**

1. Title: **Review, consideration and possible approval of an amendment to the Exclusive Franchise Agreement between the City of Elko and Elko Sanitation Company dated June 11, 2012, as amended, for sanitation service in the City of Elko, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **August 11, 2018**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **Elko Sanitation Company currently provides sanitation service in the City of Elko pursuant to an agreement dated June 11, 2012, as amended. Elko Sanitation is requesting that the rate schedule be amended pursuant to Section 15.01 (CPI Based Change) of the agreement. The request is to be made in writing. Such request is to be accompanied by statement from an independent certified public account that the contractor's cost of doing business has increased at a rate at least equal to the increase in CPI. The fees or compensation may be increased every two (2) years at an amount equal to the net percentage change in the CPI less one percent. SAW**
6. Budget Information:

Appropriation Required: **NA**
Budget amount available: **NA**
Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed amendment, Elko Sanitation letter August 5, 2020, supporting documentation dated July 10, 2020 and proposed rate schedule with changes highlighted.**
9. Recommended Motion: **Pleasure of the Council.**
10. Prepared By: **Scott A. Wilkinson, City of Elko Assistant City Manager**
11. Committee/Other Agency Review: **Legal**
12. Council Action:
13. Agenda Distribution: **Mr. Jared Martin; Site Manager**
jaredm@wenx.org

ELKO SANITATION, INC.

**COSTS OF PROVIDING SERVICES TO CITY OF ELKO
RATE OF CHANGE COMPARED TO RATE OF
CHANGE FOR CONSUMER PRICE INDEX FISCAL
YEAR 2017 TO 2019**

ELKO SANITATION, INC.

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Independent Accountant's Review Report

To the Board of Directors of
Elko Sanitation, Inc.
Elko, Nevada

We have reviewed Elko Sanitation, Inc.'s Costs of Providing Services to the City of Elko Rate of Change Compared to the Rate of Change for Consumer Price Index for the fiscal years 2017 to 2019. Elko Sanitation, Inc. management is responsible for the Costs of Providing Services to the City of Elko Rate of Change Compared to the Rate of Change for Consumer Price Index for the fiscal years 2017 to 2019.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on Costs of Providing Services to the City of Elko Rate of Change Compared to the Rate of Change for Consumer Price Index for the fiscal years 2017 to 2019.

Based on our review, nothing came to our attention that caused us to believe that the Costs of Providing Services to the City of Elko Rate of Change Compared to the Rate of Change for Consumer Price Index for the fiscal years 2017 to 2019 are not presented, in all material respects, in conformity with Elko Sanitation Inc.'s costs per their financial records.

The supplementary information contained in Consumer Price Index – All Urban Consumers is presented for purposes of additional analysis and is not a required part of the City of Elko Rate of Change Compared to the Rate of Change for Consumer Price Index for the fiscal years 2017 to 2019. We have not compiled, reviewed, or audited the supplementary information, and do not express an opinion or provide any form of assurance on it.

Glennon & Sandoval Company

Elko, Nevada
July 10, 2020

ELKO SANITATION, INC.
COSTS OF PROVIDING SERVICES TO THE CITY OF ELKO RATE OF CHANGE
COMPARED TO THE RATE OF CHANGE FOR CONSUMER PRICE INDEX
FISCAL YEAR 2017 TO 2019

ELKO SANITATION, INC.

	2017			2019			'17 to '19 % Change
	Residential	Commercial	Total	Residential	Commercial	Total	
Cost of Operations							
Labor	481,011	581,973	1,062,984	502,569	608,054	1,110,623	4.5%
Landfill fees	281,418	340,486	621,904	301,178	364,394	665,572	7.0%
Truck fuel	76,613	92,693	169,306	85,779	103,783	189,562	12.0%
Truck other	126,072	152,534	278,606	107,319	129,837	237,156	-14.9%
Other	72,695	87,953	160,648	67,043	81,116	148,159	-7.8%
Total	1,037,809	1,255,639	2,293,448	1,063,888	1,287,184	2,351,072	2.5%
Selling, General and Administrative	181,141	219,161	400,302	220,889	267,252	488,141	21.9%
Total City of Elko Operation Expenses	1,218,950	1,474,800	2,693,750	1,284,777	1,554,436	2,839,213	5.4%
Other Entity Wide Expenses							
Depreciation	145,528	176,073	321,601	126,398	152,928	279,326	-13.1%
Entity Interest	246,370	298,081	544,451	246,370	298,082	544,452	0.0%
Amortization	5,828	7,051	12,879	5,190	6,279	11,469	-10.9%
Total	397,726	481,205	878,931	377,958	457,289	835,247	
Total Expenses	1,616,676	1,956,005	3,572,681	1,662,735	2,011,725	3,674,460	2.8%

CONSUMER PRICE INDEX - ALL URBAN CONSUMERS*

Area:	2017	2019	
All items in West - Size Class B/C	148.836	157.019	5.5%

* Consumer Price Index (CPI), published by the U.S. Department of Labor, Bureau of Labor Statistics.
All items in West - Size Class B/C, all urban consumers, not seasonally adjusted, for fiscal years 2017 and 2019.

Supplementary Information

CPI for All Urban Consumers (CPI-U)
Original Data Value

Series Id: CUURN400SA0
Not Seasonally Adjusted
Series Title: All items in West - Size Class B/C, all urban
Area: West - Size Class B/C
Item: All items
Base Period: DECEMBER 1996=100
Years: 2010 to 2020

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2010	133.366	133.513	133.863	134.133	133.889	133.635	133.685	133.704	133.544	133.745	133.930	134.328	133.778
2011	134.917	135.826	137.200	138.174	138.598	138.269	138.128	138.171	138.564	138.696	138.411	138.017	137.748
2012	138.465	138.997	140.235	140.619	140.834	140.375	139.645	139.971	140.600	140.847	140.287	139.768	140.054
2013	139.865	141.072	141.573	141.788	141.838	141.805	141.940	142.228	142.277	141.954	141.736	141.751	141.652
2014	141.898	142.120	142.613	143.077	144.253	144.522	144.435	144.317	144.506	144.214	143.398	142.669	143.527
2015	142.022	143.005	143.887	144.426	145.346	145.198	144.917	144.752	144.507	144.379	143.595	143.398	144.119
2016	143.932	144.128	144.264	145.128	145.942	145.866	145.850	145.829	146.130	146.328	146.004	145.918	145.443
2017	146.469	147.451	147.880	148.496	148.789	148.792	148.691	149.255	149.954	150.336	150.003	149.920	148.836
2018	150.564	151.200	151.702	152.350	153.201	153.546	153.464	153.797	154.158	154.729	154.625	154.228	153.130
2019	154.328	154.671	155.178	156.523	157.488	157.564	157.465	157.654	157.738	158.635	158.482	158.496	157.019
2020	158.599	159.183	159.129	158.824	158.301								

Source: <https://data.bls.gov/timeseries/CUURN400SA0>

**TENTH AMENDMENT TO
EXCLUSIVE FRANCHISE AGREEMENT
FOR THE COLLECTION, TRANSPORTATION
AND DISPOSAL OF MUNICIPAL SOLID WASTE
AND THE COLLECTION, TRANSPORTATION AND DIVERSION OF RESIDENTIAL
CO-MINGLED RECYCLABLES**

This TENTH AMENDMENT TO EXCLUSIVE FRANCHISE AGREEMENT FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE AND THE COLLECTION, TRANSPORTATION AND DIVERSION OF RESIDENTIAL CO-MINGLED RECYCLABLES ("TENTH Amendment") by and between the CITY OF ELKO, NEVADA, a municipal corporation (hereinafter referred to as the "City"), and ELKO SANITATION COMPANY, a Nevada corporation (hereinafter referred to as "Contractor"), is entered into as of October 1, 2020 (the "Effective Date").

RECITALS

WHEREAS, City and Contractor entered into an Exclusive Franchise Agreement for the Collection, Transportation and Disposal of Municipal Solid Waste and the Collection, Transportation and Diversion of Residential Co-Mingled Recyclables on June 11, 2012 (the "Agreement"); and

WHEREAS, pursuant to Section 15.01 (CPI Based Change) of the Agreement, Contractor is permitted to request in writing a rate increase once every two (2) years to reflect ordinary changes in the cost of doing business, as measured by fluctuations of the Consumer Price Index (CPI), published by the U.S. Department of Labor, Bureau of Labor Statistics, for All Urban Consumers (CPI-U; West D Size; Base 12/77 - 100) subject to City Council approval; and

WHEREAS, the request is to be submitted within the year in which the CPI is published; and

WHEREAS, Contractor's fees or compensation may be increased once every two (2) years at an amount equal to the net percentage change in said CPI, computed as the difference between the indexes from January of the previous year to January of the current year; and

WHEREAS, Contractor is requesting a four point five percent (4.5%) adjustment to the City of Elko Rates as shown in Exhibit A of the Agreement pursuant to Section 15.01 (CPI Based Change) of the Agreement;

AGREEMENT

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

1. **Effective Date.** This Tenth Amendment shall become effective as of the Effective Date.

2. **Amendment to Exhibit A.** The Agreement is hereby amended by replacing the existing "Exhibit A" to the Agreement with the following revised Exhibit A:

Exhibit A - City of Elko Rates

Elko Rates

Frequency	Residential		Residential		Residential		Commercial		Commercial		Commercial	
	35 Gal Tipper	95 Gal Tipper	Recycle Cart	2 Yard Bin	3 Yard Bin	4 Yard Bin	6 Yard Bin	8 Yard Bin	65 Gal Tipper	95 Gal Tipper	65 Gal Tipper	95 Gal Tipper
1 X Week	\$15.71	\$19.06	\$0.00	\$88.96	\$104.05	\$114.02	\$138.78	\$173.81	\$23.61	\$27.67	\$23.61	\$27.67
2 X Week				\$92.48	\$138.78	\$165.01	\$277.65	\$320.46	\$37.23	\$38.29	\$37.23	\$38.29
3 X Week				\$138.78	\$208.10	\$277.51	\$416.22	\$478.48	\$0.00	\$73.05	\$0.00	\$73.05
4 X Week				\$185.71	\$277.65	\$361.01	\$555.24	\$630.80	\$0.00	\$78.59	\$0.00	\$78.59
5 X Week				\$231.30	\$347.92	\$462.52	\$693.67	\$782.84	\$0.00	\$98.37	\$0.00	\$98.37
6 X Week				\$277.67	\$416.23	\$555.02	\$822.38	\$1,001.88	\$0.00	\$115.35	\$0.00	\$115.35
Other Fees												
Rollout				\$5.27	\$5.27	\$5.27	\$0.00	\$0.00	\$5.27	\$5.27	\$5.27	\$5.27
Walk Out	\$11.35	\$11.35										
Special Pick Up				\$16.65	\$22.21	\$33.29	\$44.38	\$68.77	\$5.78	\$5.77	\$5.78	\$5.77
Wash and Sanitize	\$27.66	\$27.66	\$27.66	\$49.78	\$49.78	\$49.78	\$49.78	\$49.78	\$27.66	\$27.66	\$27.66	\$27.66
Delivery				\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35
Extra Material: \$3.32 per cartbag, \$5.53 per yard												
Return Trip: \$7.74												
Reinstatement: \$11.07												
Redelivery: \$15.99												
Waiting Time: \$1.60 per minute												
Additional 65 gallon cart	2.27											
Additional 95 gallon cart	5.65											
Direct Burial: \$92.98 plus \$110.65 landfill fee												
Bulky Items: Case by case basis												

Approved October 1, 2020 Tenth Amendment

Exhibit A (cont.)

Elko Rolloff Rates

	10 Yard	15 Yard	18 Yard	20 Yard	30 Yard
Monthly Rental Fee	\$83.37	\$83.37	\$83.37	\$83.37	\$83.37
Haul Fee (per haul)	\$77.17	\$77.17	\$83.37	\$91.08	\$138.93
Landfill Fee (per ton)	\$34.00	\$34.00	\$34.00	\$34.00	\$34.00
Delivery Fee	\$28.32	\$28.32	\$28.32	\$28.32	\$28.32
Mileage Rate (per mile)	\$2.89	\$2.89	\$2.89	\$2.89	\$2.89
Relocate	\$33.19	\$33.19	\$33.19	\$33.19	\$33.19
Trip Charge	\$33.19	\$33.19	\$33.19	\$33.19	\$33.19
Tires (per tire) - \$16.59					
Wash, Sanitize, Redeliver - case by case basis					
Waiting Time: \$1.66 per minute					

Approved: October 1, 2020 Tenth Amendment

3. **Counterparts.** This Tenth Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

4. **Ratification.** All terms and provisions of the Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the date of this Tenth Amendment, all references to the term "Agreement" in this Tenth Amendment and in the original Agreement shall include the terms contained in this Tenth Amendment.

5. **Conflicting Provisions.** In the event of any conflict between the original terms of the Agreement and this Tenth Amendment, the terms of this Tenth Amendment shall prevail.

6. **Authorization.** Each party executing this Tenth Amendment represents and warrants that it is duly authorized to cause this Tenth Amendment to be executed and delivered.

7. **Execution in Triplicate.** This Tenth Amendment, consisting of five (5) pages, shall be executed in triplicate, and each executed copy shall have the full force and effect of an original.

[Signature Page Immediately Follows.]

IN WITNESS WHEREOF, the parties execute this Tenth Amendment as of the Effective Date.

CITY:

CITY OF ELKO

By: _____
Reece Keener, Mayor

ATTEST:

Kelly Wooldridge , City Clerk

CONTRACTOR:

By: _____
Name: Jared Martin
Its: Manager

Elko Rates

Frequency	Residential 35 Gal Tipper	Residential 95 Gal Tipper	Residential Recycle Cart		2 Yard Bin	3 Yard Bin	4 Yard Bin	6 Yard Bin	Commercial 8 Yard Bin	Commercial 65 Gal Tipper	Commercial 95 Gal tipper
1 X Week	\$15.71	\$19.06	\$0.00		\$68.95	\$104.06	\$114.02	\$138.78	\$173.81	\$23.61	\$27.67
2 X Week					\$92.49	\$138.78	\$185.01	\$277.65	\$320.46	\$37.23	\$39.29
3 X Week					\$138.78	\$208.10	\$277.51	\$416.22	\$478.48		\$73.05
4 X Week					\$185.71	\$277.65	\$361.01	\$555.24	\$630.70		\$78.59
5 X Week					\$231.30	\$347.92	\$462.52	\$693.67	\$782.84		\$98.37
6 X Week					\$277.67	\$416.23	\$555.02	\$832.39	\$1,001.89		\$115.36
Other Fees											
Rollout					\$5.27	\$5.27	\$5.27			\$5.27	\$5.27
Walk Out	\$11.36	\$11.36									
Special Pick Up					\$16.66	\$22.21	\$33.29	\$44.38	\$88.77	\$5.78	\$6.77
Wash and Sanitize	\$27.66	\$27.66	\$27.66		\$49.78	\$49.78	\$49.78	\$49.78	\$49.78	\$27.66	\$27.66
Delivery					\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35	\$11.35
Extra Material: \$3.32 per can/bag; \$5.53 per yard											
Return Trip: \$7.74											
Reinstatement: \$11.07											
Redelivery: \$15.99											
Waiting Time: \$1.60 per minute											
Additional 65 gallon cart: 2.27											
Additional 95 gallon cart: 5.66											
Direct Burial: \$82.98 plus \$110.65 landfill fee											
Bulky Items: Case by case basis											

Approved: October 1, 2020 Tenth Amendment

Elko Rolloff Rates

	10 Yard	15 Yard	18 Yard	20 Yard	30 Yard
Monthly Rental Fee	\$83.37	\$83.37	\$83.37	\$83.37	\$83.37
Haul Fee (per haul)	\$77.17	\$77.17	\$83.37	\$91.08	\$138.93
Landfill Fee (per ton)	\$34.00	\$34.00	\$34.00	\$34.00	\$34.00
Delivery Fee	\$28.32	\$28.32	\$28.32	\$28.32	\$28.32
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Relocate	\$33.19	\$33.19	\$33.19	\$33.19	\$33.19
Trip Charge	\$33.19	\$33.19	\$33.19	\$33.19	\$33.19
Tires (per tire) - \$16.59					
Wash, Sanitize, Redeliver - case by case basis					
Waiting Time: \$1.66 per minute					

Approved: October 1, 2020 Tenth Amendment

5 August 2020

Scott Wilkinson
City of Elko
1751 College Avenue
Elko, NV 89801



Dear Scott,

Elko Sanitation would like to thank you for the opportunity to provide the solid waste removal services for the customers of the City of Elko. We look forward to continuing a strong working relationship with our community for many years to come. We have a wonderful crew of local employees who have invested themselves in the City of Elko through donations and community involvement. Elko is our home and we are dedicated to its success.

Per our franchise agreement, we are eligible for a price increase this year. Our last request was approved and applied on October 1, 2018. We have submitted our rate review to an independent auditor (attached to email) and the results are as such: The West-Size Class B/C CPI has increased 5.5% over the rate review period. During the same time frame, our expenses relating to the City of Elko have increased 5.4%. Per franchise agreement, we are requesting a 4.5% Price Increase.

Over the past two years, we have continued to invest in our company in order to provide safe, clean and efficient equipment for our community. We have invested over \$800,000 in new trucks and \$115,000 in updated containers. We are also expecting delivery of 2 new trucks before the end of the year to continue to provide the City of Elko with updated equipment. These two trucks are not included on the audit as we have not taken delivery yet, but will add nearly \$700k in invested capital.

We strive to provide the City of Elko with consistent, safe and reliable trash removal service. When approved, this will better position Elko Sanitation for future capital investments of trucks and containers to keep up with the growth of the City of Elko.

We look forward to continue to provide our services to our community and neighbors in the years to come.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jared Martin', with a long horizontal line extending to the right.

Jared Martin
Site Manager
Elko Sanitation

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 Anthem Broadband of Nevada, LLC., 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: **August 11, 2020**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **15 Minutes**
5. Background Information: **The proposed term of the agreement is ten (10) years and provides for a five (5) year renewal provided the terms and conditions remain the same. The proposed franchise fee is five (5) percent of the gross revenues actually collected from customers located within the corporate limits of the City. SAW**
6. Budget Information:
 Appropriation Required: **NA**
 Budget amount available: **NA**
 Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed Non-Exclusive Franchise Agreement between the City of Elko and Anthem Broadband of Nevada, LLC.**
9. Recommended Motion: **Move to approve a Non-Exclusive Franchise Agreement between the City of Elko and Anthem Broadband of Nevada, LLC 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: **Jasen Herr**
 jasenh@safelinkinternet.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

**ANTHEM BROADBAND OF NEVADA LLC ~~SAFELINK INTERNET LLC~~
an Nevada ~~Idaho~~ Corporation**

_____, 20____

**FRANCHISE AGREEMENT BETWEEN THE CITY OF ELKO AN ANTHEM BROADBAND OF NEVADA LLC SAFELINK-INTERNET LLC ("GRANTEE"), An
INTERNET SERVICE PROVIDER**

THIS FRANCHISE AGREEMENT (hereinafter "Agreement") is entered into as of the _____ day of _____, 20____ (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 ANTHEM BROADBAND OF NEVADA SAFELINK-INTERNET-LLC an Nevada Idaho Corporation (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 and License. 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 right-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. As part of the foregoing franchise, the Grantee is hereby given a revocable license to pull fiber optic cable in underground conduit owned by the City within City rights-of-way, so long as the City determines, in its sole discretion, that (i) the conduit is not occupied by City-owned fiber and (ii) the conduit is no less than one and one half (1 ½) inches in diameter; provided, the foregoing license shall only be given if, in the sole discretion of the City, the conduit has sufficient capacity; further provided, the foregoing license is revocable by the City for any reason upon ninety (90) days' prior written notice to the Grantee. Notwithstanding any other provision contained herein, the revocable permit given hereby shall be automatically revoked if the Grantee fails to provide telecommunications services to at least one person or area in the City within ninety (90) days of installation of the fiber in the City-owned conduit.

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 any Franchise Fee established by resolution of the City Council 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.

Notwithstanding any other provision contained in this Section 2.1, the City Council may, by resolution, reduce the compensation to be paid for the franchise to an amount less than stated in this agreement for a set period of time, upon the expiration of which the compensation shall return to the amount stated herein.

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: Mike Ricks
Nevada Broadband Safelink-Internet LLC
906 S Oneida Street
Rupert, Idaho, 83350
Office: 208-677-8000
Cell: 208-312-3075

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

NEVADA BROADBAND SAFELINK
INTERNET LLC

By: _____

Its: _____