

Hem # 8-6c

**City of Carson City  
Agenda Report**

**Date Submitted:** Sept 4, 2009

**Agenda Date Requested:** Sept 17, 2009  
**Time Requested:** Consent

**To:** Mayor and Supervisors  
**From:** Public Works

**Subject Title:** Action to approve the LEASE AGREEMENT between CARSON CITY and NEVADA RURAL COUNTIES RSVP PROGRAM, INC for lease of a facility located at 2621 Northgate Lane Suite Number 6.

**Staff Summary:** This agreement is being done as a result of RSVP moving from the Butti Way office facility to the Northgate Office Complex.

**Type of Action Requested:** (check one)

Resolution       Ordinance  
 Formal Action/Motion       Other (Specify)

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

**Recommended Board Action:** I move to approve the LEASE AGREEMENT between CARSON CITY and NEVADA RURAL COUNTIES RSVP PROGRAM, INC for lease of a facility located at 2621 Northgate Lane Suite Number 6.

**Explanation for Recommended Board Action:** This agreement is being done as a result of RSVP moving from the Butti Way office facility to the Northgate Office Complex. The move to Northgate was suggested as a better long term location for RSVP and can be accommodated since the Building Division has consolidated into the Planning and Engineering offices also located at the Northgate office complex.

**Applicable Statute, Code, Policy, Rule or Regulation:** NA

**Fiscal Impact:** None

**Explanation of Impact:** No change in cost to the City.

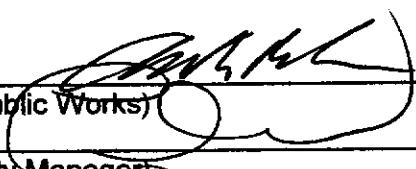
**Funding Source:** NA

**Alternatives:** NA

**Supporting Material:** LEASE AGREEMENT

**Prepared By:** Andrew Burnham, Public Works Director

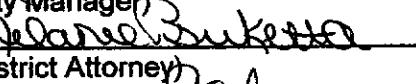
Reviewed By:

  
(Public Works)

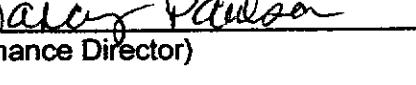
Date: 9/8/09

  
(City Manager)

Date: 9-8-09

  
(District Attorney)

Date: 9-8-09

  
(Finance Director)

Date: 9/8/09

**Board Action Taken:**

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

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

**LEASE AGREEMENT**

THIS LEASE AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Consolidated Municipality of **CARSON CITY**, hereinafter referred to as **CITY**, and **NEVADA RURAL COUNTIES RSVP PROGRAM, INC.**, a non-profit Nevada corporation, hereinafter referred to as **RSVP**.

WHEREAS, the **CITY** has financially supported **RSVP** and its programs in the past and wishes to continue to support the work of **RSVP**; and

WHEREAS, the Carson City Board of Supervisors has determined that a facility located at 2621 Northgate Lane, Suite #6, which was formerly occupied by the Carson City Building Division, is not needed for public purposes of the county for a period of ten (10 ) years commencing with the execution of this Lease Agreement; and

WHEREAS, the **RSVP** is a non-profit charitable or civic organization under the provision of the Internal Revenue Code 501 (c) (3), and desires to use this facility for charitable or civic purposes and more specifically, for fostering greater civic engagement for citizens aged 55 and older by providing meaningful opportunities for volunteering in their communities, and by providing high impact independent living programs for low-income and homebound seniors to assist them in staying independent and in their own homes as long as possible; and

WHEREAS, NRS 244.284 allows the Carson City Board of Supervisors to lease any real property of the county if such real property is not needed for the public purposes of the county and is let to a corporation for public benefit; and

WHEREAS, the Carson City Board of Supervisors specifically finds that this Lease meets the conditions of NRS 244.284; and

WHEREAS, a condition precedent to the **RSVP**'s occupancy of the premises under this Lease is that the **RSVP** must apply for and receive all required special use permits and/or variances and any other licenses or permits required by City, State, or Federal governmental agencies.

IN CONSIDERATION of the mutual promises of both parties and other good and valuable consideration as hereafter set forth, the parties hereto covenant and agree as follows:

**CITY** does hereby lease to **RSVP** and **RSVP** does hereby lease from **CITY**, the following described property hereinafter referred to as "the premises":

**2621 Northgate Lane, Suite #6**

**Carson City, Nevada**

1. TERM: a. Lease: The term of this Lease is for a period of ten (10 ) years, beginning on the \_\_\_\_ day of \_\_\_\_\_, 2009, and terminating at midnight on the \_\_\_\_ day of \_\_\_\_\_, 2019 , unless sooner terminated by mutual agreement of the parties or for violation of any term or condition of this Lease.

b. Option to Renew Lease: Upon the expiration of the initial term of this Lease, **RSVP** may request to renew this Lease upon the same terms and conditions as contained herein, for a ten -year period, by providing notice of its desire to remain on the premises for an additional ten years. Said notice must be provided in writing at least sixty (60) calendar days prior to the expiration of the initial term of this Lease. Renewal of this Lease shall be at the sole discretion of the Carson City Board of Supervisors which may base its decision to renew or not to renew on a number of factors, including but not limited to, the need to use the premises for a public purpose and the performance of the **RSVP** under the terms of this Lease.

2. RENTAL: As rental for the premises, **RSVP** agrees to pay **CITY**, without offset or deduction:

The sum of ONE DOLLAR (\$1.00) per year due the \_\_\_\_ day of \_\_\_\_\_ of each year for the initial ten (10 ) year term of this Lease, which shall begin on the \_\_\_\_ day of \_\_\_\_\_, 2009, and end on the \_\_\_\_ day of \_\_\_\_\_, 2019 . **RSVP** shall be responsible for all costs of **RSVP**'s operation, renovation of the premises, and charges or expenses of any nature whatsoever including liens filed in connection with **RSVP**'s operation of the premises.

3. THE USE OF PREMISES: The premises are leased to **RSVP** for the uses of fostering greater civic engagement for citizens aged 55 and older by providing meaningful opportunities for volunteering in their communities, and by providing high impact independent living programs for low-income and homebound seniors to assist them in staying independent and in their own homes as long as possible. Any change of this use shall not be made unless such change of use is lawful, for charitable or civic purposes and **RSVP** first obtains the written consent of **CITY**. **RSVP** shall not use the premises for any other illegal purpose or for any purpose not expressly allowed by this Lease or consented to by **CITY** in writing.

4. REPAIRS AND MAINTENANCE: **CITY** shall be responsible for maintaining at **CITY**'s expense, the building and grounds in keeping with the requirements of the county regarding structural integrity and current City, State, and Federal codes. This shall include, but shall not be limited to the following:

Roof, foundation, exterior walls, underground plumbing, and exterior grounds.

Interior walls, flooring, paint, plumbing, HVAC appurtenant to the space, electrical

fixtures, fire protection equipment, and the interior of the premises in general.

RSVP shall be responsible for, at RSVP's sole expense, the repair of any damage to the building or grounds, caused either intentionally or due to negligence, that is attributable to RSVP, its employees, agents, contractors or invitees.

5. **ALTERATIONS, LIENS, ENCUMBRANCES, AND REPAIRS:** RSVP shall not make any permanent alterations, additions, improvements, or repairs in the premises without first obtaining the consent of the CITY in writing. All alterations, additions, and improvements which are made, shall be at the sole cost and expense of the RSVP, and shall become the property of the CITY upon completion, trade fixtures excluded. Upon expiration, or earlier termination of this Lease, RSVP shall peacefully and quietly surrender to CITY the premises, and all RSVP's improvements and alterations to the premises, in good order and repair (excepting ordinary wear and tear). Any work performed by RSVP must comply with all laws, ordinances, rules and regulations of the local agencies having jurisdiction hereof. RSVP agrees to hold the CITY free and harmless from all damage, loss, and expenses arising out of said work. RSVP agrees to keep and maintain the leased premises free from any liens or encumbrances caused by any act or omission of RSVP.

6. **USE OF EXTERIOR GROUNDS:** RSVP shall not conduct any business activity outside the premises, nor store vehicles or other property, nor perform any services on any sidewalk, parking lot, or other public area provided by CITY without the written consent of CITY, which consent shall not be reasonably withheld if the proposed uses are for exhibits or activities which relate directly to the permitted uses as described herein.

7. **ENTRY AND INSPECTION:** RSVP shall permit CITY and its agents to enter the premises during normal business hours for any reasonable purpose, including, but not limited to inspections; to show the premises to prospective purchasers or lessees; to post notices of non-responsibility for alterations, additions, or repairs or utility installations; for the purpose of placing upon the property or building in which said premises are located any ordinary "for sale" or "for lease" sign within six (6) months prior to the end of this Lease or any option thereof.

8. **ASSIGNMENT AND SUBLEASING:** RSVP may only assign this Lease or sublet the leased premises, in whole or in part, after first obtaining the written consent of CITY. If CITY consents, no assignments or sublease shall be effective until RSVP delivers a copy of the assignment or subleasing agreement to CITY and the assignee or sublessee agrees in writing to assume all of the obligations of RSVP under this Lease. No assignment or subletting will relieve RSVP from any obligations under this Lease. This consent by CITY to any assignment or subletting shall not be deemed to be a waiver on the part of CITY of any prohibition against any future assignment or subletting.

9. **INDEMNIFICATION:** Unless due to the sole negligence of CITY or CITY's failure to abide by the terms of this Lease, RSVP hereby indemnifies and agrees to hold CITY harmless from and against all claims, which either arise from or in connection with the possession, use, occupancy, management, repair, maintenance, or control of the premises or any portion thereof; or as a result from any default, breach, violation, or non-performance of this Lease or any provision of this Lease by RSVP. RSVP will defend, notwithstanding the CITY's right to participate, any claims against CITY with respect to the foregoing. RSVP will pay, satisfy, and discharge any judgments, orders, and decrees which are covered against CITY in connection with the foregoing. CITY hereby indemnifies and agrees to hold RSVP harmless and shall defend any claims against RSVP in any action where CITY was solely negligent or failed to abide by the terms of this Lease.

10. **LIABILITY INSURANCE:** CITY shall not be liable to RSVP, or to any person whatsoever, for any damage caused by the acts or omissions of any persons occupying any space adjacent to or adjoining the premises unless the CITY or its agents caused the loss or damage. Except for loss or damage caused by the CITY's sole negligence, CITY shall not be responsible or liable to RSVP for any loss or damage resulting to RSVP or RSVP's property from, but not limited to, water, gas or steam; or the bursting, stoppage, or leakage of pipes. RSVP agrees to indemnify and hold the CITY harmless from and defend the CITY against any and all such claims or liability for any injury or damage to any person or property whatsoever, occurring in or on the premises or occurring as a result of the use of any of the facilities or appliances anywhere on the premises at 2621 Northgate Lane, Suite #6. RSVP further agrees to provide and pay for a general liability insurance policy with a limit of at least \$1,000,000 per occurrence and in the aggregate for bodily injury or death resulting therefrom, or for damage to the premises and shall name CITY as an additional insured by endorsement. A certificate of said insurance shall be presented to CITY prior to occupancy of the premises. The policy of insurance shall not be suspended, voided, canceled, or reduced in coverage without the prior written consent of CITY and shall contain a provision that written notice of cancellation or of any material change in said policy by the insurer shall be delivered to CITY no less than THIRTY (30) days in advance of the effective date thereof. Said policy of insurance shall be primary coverage for all claims and losses arising from the use, occupancy, and operation of the premises under this Agreement.

11. **DEFAULT:**

A. **DEFINITION OF DEFAULT:** Each of the following events shall constitute a default:

- 1) Insolvency (this includes an assignment for the benefit of creditors; filing or acquiescing to a petition in any court in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings.)
- 2) Assignment by operation of law.
- 3) Vacating the premises after occupation.
- 4) Refusing to take possession of the premises or permitting the premises to remain unoccupied and unattended.
- 5) Failure to pay any installment of rent or any other charge required to be paid by **RSVP** under this Lease when due and payable and said failure continues for ten (10) days after written notice.
- 6) Failure to perform any other conditions required to be performed by **RSVP** under this Lease and said failure continues for fifteen (15) days after written notice.
- 7) Loss of non-profit status.
- 8) Failure to continuously use the leased premises for the purposes described herein.

B. **EFFECT OF DEFAULT:** If a default occurs, **CITY** shall give **RSVP** a written notice of intention to terminate this Lease at the expiration of a thirty (30) day notice period. The written notice shall specify the breach. At the expiration of the notice period, the term of this Lease shall end if said default has not been cured by **RSVP** within said thirty (30) day period. **RSVP** must then quit and surrender the premises to **CITY**. **RSVP**'s liability under all the provisions of this Lease shall continue notwithstanding any expiration, surrender, or reentry, repossession or disposition pursuant to the following paragraph with a setoff to **RSVP** for any new rents collected by **CITY** from any new tenant during the term of this Lease.

Upon the expiration or earlier termination of this Lease, **CITY** or its agents or employees may immediately, or anytime thereafter, reenter the premises and remove **RSVP**, **RSVP**'s agents, any subtenants, licensees, concessionaires, or invitees, and any of their property from the premises. Reentry and removal may be effectuated by summary dispossession proceedings or by a suitable action or proceeding at law, by force, or otherwise. If the term of this Lease expires, **CITY** may repossess and enjoy the premises. **CITY** shall be entitled to the benefits of all provisions of law respecting the speedy recovery of lands and tenements held over

by **CITY** or proceedings in forcible entry and detainer. **RSVP**'s liability, subject to any setoff, will survive **CITY**'s reentry, the institution of summary proceeding, and the issuance of any warrants with respect thereto.

- C. **DEFICIENCY:** If this Lease is terminated pursuant to Paragraph (B) above, **RSVP** shall remain liable (in addition to accrued liabilities) to the extent legally permissible for the rent and all other charges **RSVP** would be required to pay until the date this Lease would have naturally expired had such earlier termination not occurred. **RSVP**'s liability for rent shall continue notwithstanding reentry or repossession of the premises by **CITY** subject to a setoff pursuant to Paragraph (B) above.
- D. **ATTORNEY'S FEES AND COSTS:** **RSVP** shall pay **CITY** and/or **CITY** shall pay **RSVP** responsible attorney's fees and court costs incurred in any lawsuit or action instituted by **CITY** or **RSVP** to enforce the provisions of this Lease upon determination of the prevailing party.
- E. **WAIVER OF REDEMPTION:** Except for setoffs discussed above, **RSVP** hereby waives (to the extent legally permissible), for itself and all persons who claim by, through, or under it, any right of redemption or for the restoration or the operations of this Lease in case **RSVP** is dispossessed for any cause, or in case **CITY** obtains possession of the premises as herein provided.
- F. **CITY MAY CURE RSVP'S DEFAULT:** If **RSVP** is in default under this Lease, **CITY** may cure the default at any time for **RSVP**. If **CITY** cures a default for **RSVP**, **RSVP** shall reimburse **CITY** for any amount expended by **CITY** in connection with said cure. **CITY** shall also be entitled to interest at the maximum legal rate on any amount advanced by **CITY** to cure a default of **RSVP** from the date the expense is incurred to the date of reimbursement.

The rights and remedies of **CITY** set forth herein are in addition to any other rights and remedies now or hereinafter provided by law. All rights and remedies shall be cumulative and not exclusive of each other. No delay or omission by **CITY** in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a default. No waiver of a default shall extend to or affect any other default or impair any right or remedy with respect thereto. No waiver of a default shall be effective, unless it is in writing.

12. **CHOICE OF LAW AND FORUM:** The laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this Lease. The parties agree that any dispute and/or legal proceedings regarding this Lease shall be subject to the sole jurisdiction of the State

in courts in the State of Nevada and must be filed in the First Judicial District Court located in Carson City.

13. DESTRUCTION OF PREMISES: RSVP shall maintain a policy of insurance to cover events of complete or partial destruction of the premises without fault, negligence or carelessness on the part of RSVP, its agents, employees, volunteers, or those holding possession of the premises under it.

14. HOLDING OVER: Should RSVP holdover beyond the term hereby created with the consent of CITY, RSVP shall become a tenant from month to month subject to the terms herein specified and RSVP shall continue to be a month-to-month tenant until the tenancy is terminated by CITY or until RSVP has given CITY a written notice at least one month prior to the termination of the monthly tenancy of its intention to terminate the tenancy.

15. SALE OF PREMISES: In the event of a sale or conveyance by CITY of the building containing the premises, the sale may be subject to the terms and conditions of this Lease. CITY may cancel this Lease at its sole discretion in the event of a sale or conveyance of the building containing this premises. If CITY cancels this Lease pursuant to this paragraph, CITY shall provide written notification of the termination of this Lease to RSVP not fewer than 30 days prior to the date this Lease shall terminate. If the lease is cancelled pursuant to this paragraph, RSVP and CITY agree that RSVP shall not be entitled to any consideration or compensation for the cancellation of this Lease and shall vacate the premises not more than 30 days after the date of the sale or conveyance. If the sale is subject to the terms and conditions of this Lease, RSVP agrees to look solely to the successor in interest of CITY to satisfy the terms of this lease. CITY may transfer any security deposits held from RSVP to its successor in interest and thereupon CITY shall be discharged from any further liability in reference thereto.

16. CONDEMNATION: If all the premises are taken by eminent domain, condemnation, or purchase under threat thereof, except for a taking for temporary use, this Lease shall be canceled automatically as of the taking date. If only a part of the premises is taken, CITY may cancel this Lease at its sole discretion. The option to cancel may be exercised within six (6) months of the taking date by giving RSVP notice that the option has been exercised.

If there is a taking of the premises for temporary use, this Lease shall continue in full force and effect, and RSVP shall continue to comply with RSVP's obligations under this Lease, except to the extent compliance is rendered impossible or impracticable by reason of the taking. All compensation awarded upon the condemnation or taking shall belong to CITY. RSVP hereby waives any interest in condemnation proceeding or litigation.

17. SUBORDINATION: RSVP agrees that this Lease is and shall be subordinate to any mortgage, deed of trust, or other instrument of security, existing on the land and building of which the premises are a part. Such subordination is hereby made effective without any further act by RSVP. RSVP agrees at any time, upon request by CITY, to execute and deliver any instrument, release or other document that may be required in connection with subjecting and subordinating this Lease to any lien or mortgage, deed of trust, or other instrument of security.

This provision shall be without effect unless and until the holder of the mortgage, deed of trust, or other instrument of security in question delivers to RSVP a written agreement providing in effect that so long as RSVP is not in default in the performance of its obligations under this Lease, RSVP shall not be disrupted in its possession of the premises hereunder.

18. SIGNS: RSVP shall be allowed to place one sign (RSVP) on the exterior walls of the premises after obtaining a City permit and the written consent of the CITY.

It is the intention of CITY to insure aesthetically tasteful uniformity in the building of which the premises are a part. CITY may, without liability, enter onto the premises and remove any such sign, marquee, awning, decoration or attachment affixed in violation of this paragraph. RSVP agrees to pay the cost of removal thereof.

19. SURRENDER OF LEASE: No act or conduct of CITY, whether consisting of the acceptance of the keys to the premises or otherwise, shall be deemed to constitute an acceptance of the surrender of the premises by RSVP prior to the expiration of the term hereof. Acceptance by CITY of surrender of the premises by RSVP must be evidenced by a written acknowledgement of acceptance of surrender by CITY. The voluntary or other surrender of this Lease by RSVP, or a mutual cancellation thereof, shall not constitute a merger, and CITY may terminate all or any existing subleases, subtenancies, or concessions, or may, at its sole option, accept any and all such subleases, subtenancies, or concessions as being legally binding and enforceable.

20. NOTICES: Notices to the respective parties must be in writing and sent by certified or registered mail, addressed to the respective party and the addresses set forth below or at such other address as either party may elect to provide in advance in writing to the other party.

CITY: CARSON CITY MANAGER  
CARSON CITY  
201 N. CARSON STREET, CARSON CITY, NV 89701

RSVP: EXECUTIVE DIRECTOR, NEVADA RURAL COUNTIES RSVP  
PROGRAM, INC.

P.O. BOX 1708, CARSON CITY, NV 89702

21. NO ORAL CHANGES: This lease may not be changed or terminated orally.
22. SUCCESSOR AND ASSIGNS: Except as otherwise provided, this Lease shall bind and inure to the benefit of the parties and their respective successors, representatives, heirs, and assigns.
23. UTILITIES: The following utilities shall be supplied to the premises by CITY:  
ELECTRICAL POWER, GAS, WATER, SEWER, AND GARBAGE SERVICE.  
RSVP shall pay its proportional share of the cost of these utilities based on RSVP's gross leasable area divided by the gross leasable area of the building of which RSVP's premises are a part. The total square footage of the building is 3,522. The total square footage subject to this lease is 3,522 square feet.  
CITY shall not be liable for failure to furnish any of the above services when such failure is caused by conditions beyond the control of CITY, or by accidents, repairs, or strikes; nor shall CITY be liable, except when solely negligent, for loss or injury to property, however, occurring through or in connection with or incidental to the furnishing of any of the aforementioned services.
24. QUIET ENJOYMENT: The CITY agrees that as long as RSVP is in full compliance with the provisions of this Lease, it shall be entitled to quietly enjoy the premises for the full term of this Lease. No use shall be made or permitted to be made of the premises or any part thereof and no acts will be done therein which may disturb the quiet enjoyment of any other tenant in the building of which the premises are a part.
25. SNOW REMOVAL: Snow and ice removal shall be the responsibility of CITY.
26. COMPLIANCE WITH THE LAW: RSVP shall promptly execute and comply with all statutes, rules, orders, building codes, ordinances, requirements, and regulations of the City, County, State, and Federal governments, including OSHA, the Americans with Disabilities Act of 1990 (42 USC Section 12101 through 12213 and 47 USC Sections 225.611) and their underlying regulations and rules, which are applicable to the premises. Nothing herein contained shall be construed to restrict RSVP from contesting the validity of any such regulations, rule or ordinance, provided RSVP indemnifies CITY to its reasonable satisfaction against the consequences of non-compliance during the period of dispute.
27. ENTIRE AGREEMENT: This instrument along with any exhibits and attachments hereto constitutes the entire agreement between the parties. This Agreement may only be altered, amended, or revoked by an instrument in writing signed by both parties. It is understood that there are no oral agreements between the parties hereto and that all previous negotiations,

discussions, and previous leases between the parties hereto affecting this Lease are superseded by this Lease.

28. ATTORNEY'S FEES: In case suit shall be brought for an unlawful detainer of the premises, for the recovery of any rent due under the provisions of this Lease, or for RSVP's breach of any other condition contained herein, RSVP shall pay to CITY reasonable attorney's fees which shall be deemed to have accrued on the commencement of the action and shall be paid on the successful completion of this action by CITY. RSVP shall be entitled to attorney's fees in the same manner if judgment is rendered in favor of RSVP.

29. WAIVER: The failure of CITY or RSVP to insist upon strict performance of any of the covenants, terms or provisions contained in this Lease or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any said covenants, terms, or provisions, but the same shall remain in full force and effect.

30. REMEDIES: The remedies given to CITY and RSVP shall be cumulative, and the exercising of any one remedy shall not be to the exclusion of any other remedy.

31. EARLY TERMINATION: This Lease may be terminated prior to the end of the term set forth herein above or prior to the natural expiration of any renewal period if the purpose of this Lease is substantially impaired or obstructed by any unforeseen event, occurrence, or circumstance outside the control of CITY or RSVP without prejudice or penalty to either party hereto and without such event, occurrence or circumstance being defined, interpreted, or construed as a breach or default on the part of either party.

32. **FORCE MAJEURE:** Any delay or stoppage of business due to acts of God, enemy or hostile action, fire or other casualty, shall excuse the performance by either party to this Lease for a period equal to any such delay or stoppage.

IN WITNESS WHEREOF, the parties hereto have inscribed their names, and if corporations have authorized their officers by resolution to execute this Lease in duplicate, the day and year herein above written.

LESSOR: CARSON CITY

By: \_\_\_\_\_  
Robert L. Crowell, Mayor

ATTEST:

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Clerk-Recorder

LESSEE: NEVADA RURAL COUNTIES RSVP PROGRAM, INC.  
Non-Profit Corporation

By:   
Janice Ayres, Director

Approved as to legal form:  
Neil A. Rombardo  
District Attorney

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Deputy District Attorney