



STAFF REPORT

Report To:	Board of Supervisors	Meeting Date:	May 21, 2020
Staff Contact:	Darren Schulz, Public Works Director		
Agenda Title:	For Possible Action: Discussion and possible action on the proposed approval of, and authorization for the Mayor to sign, a Grant of Non-Exclusive Utility Easement across APNs 010-031-04 and 010-031-06 from Carson City (Grantor) to Paiute Pipeline Company (Grantee) for the installation and maintenance of a natural gas pipeline or pipelines and appurtenances. (Darren Schulz, DSchulz@Carson.org; Dan Stucky, DStucky@Carson.org; and Jennifer Budge, JBudge@carson.org)		
<p>Staff Summary: The 2020 Paiute Pipeline Expansion Project will include the installation or replacement of pipeline facilities across land owned by Carson City adjacent to Fairview Drive. City staff has been coordinating with Paiute Pipeline Company regarding the design and easements required for this project. Paiute Pipeline Company is requesting a permanent easement for construction outside of the road right-of-way on property owned by Carson City. The grant of easement includes Grantee's offer of compensation in the amount of \$1,000 for the permanent easement. The easements are needed for construction and maintenance associated with the project.</p>			

Agenda Action: Formal Action / Motion **Time Requested:** 5 minutes

Proposed Motion

I move to approve and authorize the Mayor to sign the Grant of Non-Exclusive Utility Easement.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

N/A

Background/Issues & Analysis

As part of the 2020 Paiute Pipeline Expansion Project, Paiute Pipeline Company will be installing or replacing pipeline facilities across City-owned property adjacent to Fairview Drive. As a result of some of these improvements being outside of the road right-of-way, Paiute Pipeline Company is requesting a permanent easement totaling approximately 10,893 square feet across APNs 010-031-04 and 010-031-06 located west of Fairview Drive for the installation and maintenance of the natural gas pipeline.

Pursuant to NRS 244.279, the City may sell or lease right-of-way to a public utility.

City staff has been coordinating with Paiute Pipeline regarding the design and easements required for the project. The attached Grant of Easement document includes conditions that Staff believes will help to mitigate the project impacts. In order to establish fair market value of the easement, City staff used an appraisal completed in 2018 for similar City-owned parcels at the corner of Fairview Drive and 5th Street. This appraisal

was conducted as part of the 2018 Paiute Pipeline Expansion Project for the purposes of establishing fair market value for an easement over City-owned land. The previous valuation per acre was adjusted for current real estate market conditions. Based on this analysis and the mutual agreement of the parties, the compensation offered is \$1,000.00 for the permanent easement.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 244.279

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Wastewater Utility Fund- Refunds and Reimbursements/5108080-466050

Is it currently budgeted? No

Explanation of Fiscal Impact: The City will receive \$1,000 for the permanent easement. Staff is requesting that since the subject property is maintained using funds primarily from the Wastewater Utility Fund- Facility Repair & Maintenance, then the revenue received from this easement should go into this fund.

Alternatives

Do not approve the easement and provide alternative direction.

Attachments:

[GRANT OF NON-EXCLUSIVE UTILITY EASEMENT FINAL.pdf](#)

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

APNs: 010-031-06 & 010-031-04

**AFTER RECORDING RETURN TO:
CARSON CITY PUBLIC WORKS**

Attn: Real Property Mgr.
3505 Butti Way
Carson City, NV 89701

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (N.R.S. 239B.030)

GRANT OF NON-EXCLUSIVE UTILITY EASEMENT

THIS GRANT OF NON-EXCLUSIVE UTILITY EASEMENT is made and entered into by and between CARSON CITY, NEVADA, a consolidated municipality and political subdivision of the State of Nevada ("GRANTOR"), and PAIUTE PIPELINE COMPANY, a Nevada Corporation ("GRANTEE"), hereinafter individually referred to as "Party" or collectively as "Parties."

WITNESSETH:

WHEREAS, GRANTOR owns Assessor's Parcel Numbers 010-031-06 and 010-031-04; and

WHEREAS, GRANTEE has made application to construct a pipeline replacement project entitled "Carson Lateral Replacement", hereinafter referred to as "Project", and wishes to obtain from the GRANTOR an Easement for the installation and maintenance of a natural gas pipeline or pipelines and appurtenances and the removal or replacement of same for said Project; and

WHEREAS, NRS 244.279 gives the GRANTOR the authority to sell or lease right-of-way to a public utility over or upon any land owned by the GRANTOR; and

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, GRANTOR does hereby grant to GRANTEE, a Non-Exclusive Utility Easement for the purposes stated above, hereinafter referred to as "Easement", under, over, across and/or through the property described in the attached Exhibit A, together with the right of ingress and egress to and from said Easement and the right to use existing roads for the purpose of constructing, inspecting, repairing, and maintaining said pipeline or pipelines appurtenances and the removal or replacement of same, in whole or in part, at will.

IN FURTHER CONSIDERATION for the granting of the Easement, GRANTEE, its successors and assigns and/or its agents(s) and contractor(s), understands and agrees to the following specific conditions:

1. PURPOSE:

- i. The Easement is non-exclusive to GRANTEE.
- ii. GRANTOR may use the Easement area for any reasonable purpose that does not interfere with GRANTEE's facilities, access to the facilities, GRANTEE's rights or use of the Easements, or that pose a risk to public safety or the safety and safe operation of the pipeline facilities that are the subject of the Easement.
- iii. In all events and at all times, all separations from GRANTEE's facilities as specified by GRANTEE are to be maintained and all applicable statutes and regulations for the protection of subsurface installations are to be strictly observed by GRANTOR.
- iv. In no event shall any structures, fences or other improvements be placed on or in the Easement area other than those existing on the recording date of this Easement without consulting with GRANTEE and obtaining GRANTEE's approval, which approval shall not be unreasonably withheld, conditioned or delayed. Except as otherwise provided herein or as may be mutually agreed upon in writing by the Parties, in no event may any permanent buildings, reservoirs, fences, or trees be placed on or in the Easement area. No permanent structures or improvements shall be permitted that interfere with GRANTEE's facilities, access to the facilities, GRANTEE's rights or use of the Easements, or that pose a risk to public safety or the safety and safe operation of the pipeline facilities that are the subject of the Easement. Notwithstanding the foregoing, GRANTEE shall allow GRANTOR to install certain appurtenances that are consistent with aesthetics and the safe operation and management of the City's trail system. Appurtenances may include, but are not limited to signage, waste containers, portable restroom facilities, landscaping, irrigation, fences, and benches; provided that at least ten feet (10') of separation is maintained from the pipeline facilities. Except as otherwise mutually agreed upon in writing by the Parties, appurtenances or improvements permitted under this provision may not be placed above, on, or cross over the pipeline facilities. Permitted fences or similar trail management devices shall be of a split-rail type fencing or other easily removed and replaced nature and subject to the foregoing separation requirements and restriction against placement on, above, or crossing over the pipeline facilities. Any permitted landscaping shall be restricted to ground cover and other shallow-rooted vegetation (not exceeding 12-inches in root depth at maturity). Appurtenances shall not be installed exceeding 12-inches of depth.

2. PERMITS: This Easement is subject to the acquisition of all local, regional, state and federal permits and approvals as required by law. GRANTEE agrees to obtain and adhere to the conditions of the necessary permits.

3. INDEMNIFICATION: To the extent consistent with applicable law, GRANTEE shall indemnify and hold harmless GRANTOR, including GRANTOR's Board of Supervisors of Carson City, Nevada, and employees thereof, from any and all suits, claims, damages, and judgments ensuing from injury or death to persons and property due to the construction, operation and maintenance of said natural gas pipelines and related appurtenances performed by GRANTEE within the subject Easement area; all to the extent and in proportion that GRANTEE is determined to be at fault by a court of competent jurisdiction, or by settlement. If the City decides to participate in any matter in which GRANTEE has agreed to defend the GRANTOR, the cost of such participation shall be solely that of GRANTOR and not subject to this provision of this Easement. Nothing in this provision shall require GRANTEE to indemnify or defend GRANTOR from any suits, claims, damages, loss, cost, expense or judgments arising from the negligence or willful misconduct of GRANTOR, or that of GRANTOR's officers, officials, employees, contractors, subcontractors, representatives or agents; or third parties not under GRANTEE's direction and control.

4. INSURANCE, CONTRACTORS AND SUB-CONTRACTORS: GRANTEE agrees to carry and to require their contractors and sub-contractors to carry their own General Liability Insurance Policy issues by an insurance company authorized to do business in the State of Nevada and which is currently rated by A.M. Best as A-VII or better. The insurance policy is to be kept in full force and effect during the life of this Easement. Such insurance policy shall be at minimum, in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate for general liability and shall via an endorsement, name the City of Carson City, its officers, employees and agents as additional insured for all liability arising from the use of GRANTOR's land. Each liability insurance policy shall also provide for a waiver of subrogation as to all additional insured's. GRANTEE agrees to provide and to require their contractors and sub-contractors to provide to the GRANTOR the Accord 25 Certificate of Insurance as proof of the insurance and an Additional Insured Endorsement, signed by an authorized insurance company representative, to evidence the endorsement of the State as additional insured. The Certificate of Insurance and Additional Insured Endorsement shall be provided by each contractor and sub-contractor prior to their entry upon City property and be sent to:

CARSON CITY RISK MANAGER
201 North Carson Street #3
Carson City, NV 89701
FAX: (775) 887-2107

Notwithstanding anything to the contrary set forth herein, Grantee shall have the right to self-insure as to the coverages set forth above; provided, however, that Grantee provides a self-insured letter which confirms the self-insured retention for each of the required coverages.

5. PLANS AND PHOTOGRAPHS: The Project and related activities must be completed in accordance with the approved application and plans on file in the office of the GRANTOR's Development Engineering Division. The GRANTOR must be notified if any alterations to the approved plans which would substantially affect the land are made or proposed prior to commencement of or during any work on the Project and related activities. The GRANTOR reserves the right to prohibit said alterations.

6. INSPECTION: GRANTOR retains the right to inspect the Project at any time. Except in exigent circumstances and for routine inspections and maintenance not requiring excavation, GRANTEE agrees to notify GRANTOR at least TWO (2) business days prior to the commencement and termination of any activities on the property to allow interested agencies the opportunity to inspect the Project.

7. EXISTING EASEMENTS: GRANTEE, its successors and assigns, and/or its agent(s) or contractors(s) understands and agrees to require contractors to use caution when constructing and placing the Project and supporting equipment because of the possibility of additional utility laterals not known, and to be responsible for damage caused by GRANTEE or its contractors or agents to any other utilities located upon GRANTOR's land. The legally required offsets from any existing gas, electric, water and/or communication lines shall be maintained at all times.

8. HISTORIC DISCOVERIES: If prehistoric or historic remains or artifacts are discovered during any work performed within the Easement, work will be temporarily halted and the State Historic Preservation Office at (775) 684-3448 as well as the GRANTOR's Development Engineering Division at (775) 887-2300 shall be notified. GRANTEE will heed to the responsibilities required under Section 106 of the Natural Historic Preservation Act of 1966, as amended.

9. DAMAGE TO GRANTOR PROPERTY: GRANTEE shall be responsible for all damages to the real property, improvements, and personal property of GRANTOR directly or proximately caused by GRANTEE during any construction, relocation, installation, use, operation, inspection, future maintenance, repairs, reconstruction, or removal of GRANTEE's facilities that are the subject of this Easement. GRANTEE further agrees to return the land to reasonably the same condition upon completion of such work, including revegetation, which meets the requirements as outlined in the Restoration and Revegetation Plan mutually agreed-upon by GRANTOR's Development Engineering Division and GRANTEE.

10. BICYCLE AND PEDESTRIAN PATH: Carson City's bicycle and pedestrian paths are not built to withstand construction traffic. Any portions of the path which are driven across or used to transport materials will require full width reconstruction. GRANTEE, its successors and assigns, shall restore Carson City's bicycle and pedestrian paths disturbed by GRANTEE to reasonably the same as pre-construction conditions and any repairs must replace the full width of the path. Sections of the path not being used during construction shall be fenced off for protection. Carson City's Construction Manager, using reasonable judgement, will determine the extent of path repair or replacement that is required following the installation of the pipeline. Portions of the path fenced off or not used for construction activities will be exempted from repair or replacement.

11. SEPARATION OF UTILITIES: GRANTEE shall maintain GRANTOR's requested ten-foot (10') horizontal and eighteen-inch (18") vertical separation from GRANTOR's utilities, including a 24-inch water transmission main, a 24-inch reclaimed water transmission main, stormwater infrastructure, and a communications conduit existing within or in close proximity to the Easement at the time of initial grant. If these specified separations are not possible to adhere to in any area, GRANTEE shall first consult with and obtain approval from GRANTOR'S Public Works Director, or his or her designee, prior to installation, which approval shall not be unreasonably withheld, conditioned, or delayed. GRANTOR does not warrant that the listed utilities are the sole utilities within the Easement area; the required separation shall be maintained from all utilities, unless otherwise agreed as specified in this paragraph.

12. REVEGETATION: GRANTEE shall meet applicable revegetation requirements, which meet the requirements as outlined in a Restoration and Revegetation Plan mutually agreed-upon by GRANTOR's Development Engineering Division and GRANTEE. The plan will contain the GRANTOR's prescribed seed mixes and the criteria for successful revegetation.

13. DRAINAGES: GRANTEE shall maintain a minimum of five feet (5') of cover at all drainage crossings and install riprap for erosion control where GRANTEE's construction work disturbs any existing drainages, as appropriate.

14. ABANDONMENT OF PIPELINE: GRANTEE shall abandon and grout fill any segments of existing pipeline facilities within the Easement area that will not be removed from the Easement area in accordance with GRANTOR's requirements in Orange Book, Section 305.01.03.05.02, as may be amended. Any future pipeline facilities that are abandoned in place and not removed from the Easement area shall be filled grout in accordance with GRANTOR's requirements in Orange Book, Section 305.01.03.05.02, as such requirements are amended and applicable at the time of such abandonment in place.

15. MAINTENANCE: GRANTEE, its successors and assigns, shall be responsible for all maintenance of the Project owned by GRANTEE and those portions of the Easement affected by the project and understands and agrees that the Project must be maintained in good repair at all times.

16. ENVIRONMENTAL CONDITIONS: GRANTEE, its successors and/or its agent(s) or contractor(s) understands and agrees to maintain the Project within the Nevada Division of Environmental Protection's Best Management Practices guidelines.

17. WARRANTIES: GRANTOR makes no warranty as to the condition of or the adequacy of the property for the proposed uses of GRANTEE.

19. NOTICES: All written notices or demand of any kind which either Party hereto may be required or may desire to serve on the other in connection with this Easement must be delivered by personal service, by registered or certified mail, recognized overnight courier service, facsimile transmission or confirmed electronic mail, addressed to the respective Parties at the physical addresses, facsimile numbers or electronic mail addresses set forth below:

GRANTOR: CARSON CITY MANAGER
CARSON CITY
201 N. CARSON STREET
CARSON CITY, NV 89701
FAX: (775) 887-2286

GRANTEE: PAIUTE PIPELINE COMPANY
P.O. BOX 1190
CARSON CITY, NEVADA 89702-1190

Service of any such notice or demand so made by personal delivery, registered or certified mail, recognized overnight courier or facsimile transmission shall be deemed complete on the date of actual delivery as shown by the addressee's registry or certification receipt or, as to facsimile transmissions, by transmission confirmation, as applicable, or at the expiration of the third (3rd) business day after the dispatch, whichever is earlier in time. Either Party hereto may

from time to time, by notice in writing served upon the other as aforesaid, designate a different mailing address or facsimile number to which all such notices or demands are thereafter to be addressed.

20. FURTHER AUTHORIZATIONS: Further authorization from the GRANTOR is required prior to commencement of any future work or activities at locations other than those described for this Project.

21. TERM AND DISCONTINUATION: This Easement shall continue so long as the same may be necessary and required for the purposes for which it was granted unless terminated sooner by another provision. If at any time GRANTEE should discontinue said use for a period of ONE (1) year this Easement shall thereupon terminate and all right, title and interest therein shall revert to GRANTOR, its successors and assigns.

22. COMPLIANCE TO CONDITIONS: Failure to concur with or comply with any of the conditions contained herein will cause this Easement to become invalid and shall require the removal of the Project and appurtenances. All right, title and interest in the Easement shall revert to GRANTOR. GRANTEE agrees to provide a copy of this Easement to its contractors prior to entering and beginning any work on the property described herein.

23. WAIVER: The failure of GRANTOR or GRANTEE to insist upon strict performance of any of the covenants and agreements to this Easement or to exercise any option herein conferred in anyone or more instance, shall not be construed to be a waiver or relinquishment of any such covenants and agreements.

24. SURVIVAL: This Easement, and all of the terms hereof, shall inure to the benefit of, and be binding upon, their heirs, assigns and successors of the parties hereto, and the rights and obligations of GRANTEE are, and shall continue to be, joint and several.

25. ENTIRE AGREEMENT: This Easement and conditions incorporated herein contain all of the agreements between the parties with respect to the matters contained herein. No prior agreement, understanding or verbal statement made by any party is part hereof. No provisions of the Easement may be amended or modified in any manner whatsoever unless incorporated in writing and executed by both parties. When executed by GRANTOR and GRANTEE, this Easement shall be binding upon GRANTOR and GRANTEE, their successors and assigns.

26. AMENDMENT OR MODIFICATION: This Easement may be amended or modified at any time with the mutual consent of the parties hereto, which amendment or modification must be in writing, executed and dated by the parties hereto.

27. SEVERABILITY: If any term or provision of this Easement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Easement or the application of such term or provision to persons or circumstances other than those as to which is held to be invalid or unenforceable shall not be affected thereby, and each term and provision of this Easement shall be valid and shall be enforced to the fullest extent permitted by law.

28. GOVERNING LAW: This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

29. VENUE: Any lawsuit brought to resolve a dispute arising from this Easement must be brought either in the location of the Project or in Carson City, Nevada.

30. ASSIGNMENT OF EASEMENT: Except to a successor of GRANTEE approved by the Federal Energy Regulatory Commission, this Easement may not be assigned or transferred without prior written approval of GRANTOR. Such approval will not be unreasonably withheld.

31. RECORDING: This Easement will be recorded in the official records of Carson City, Nevada. GRANTOR shall be responsible for all recording fees.

(The remainder of this page is blank; the signature blocks continue on the next page.)

IN WITNESS WHEREOF, the parties hereto have executed this Grant of Non-Exclusive Utility Easement as of the day and year of the last signature affixed hereto.

GRANTOR:

CARSON CITY, NEVADA:
a Consolidated Municipality:

GRANTEE:

PAIUTE PIPELINE COMPANY,
a Nevada Corporation

REVIEWED AND RECOMMENDED BY:

Dan Stucky, City Engineer

APPROVED FOR LEGALITY AND FORM:

Deputy District Attorney

APPROVED:

Robert Crowell, Mayor

ATTEST:

Aubrey Rowlett, Clerk-Recorder

Date

By:

Its:

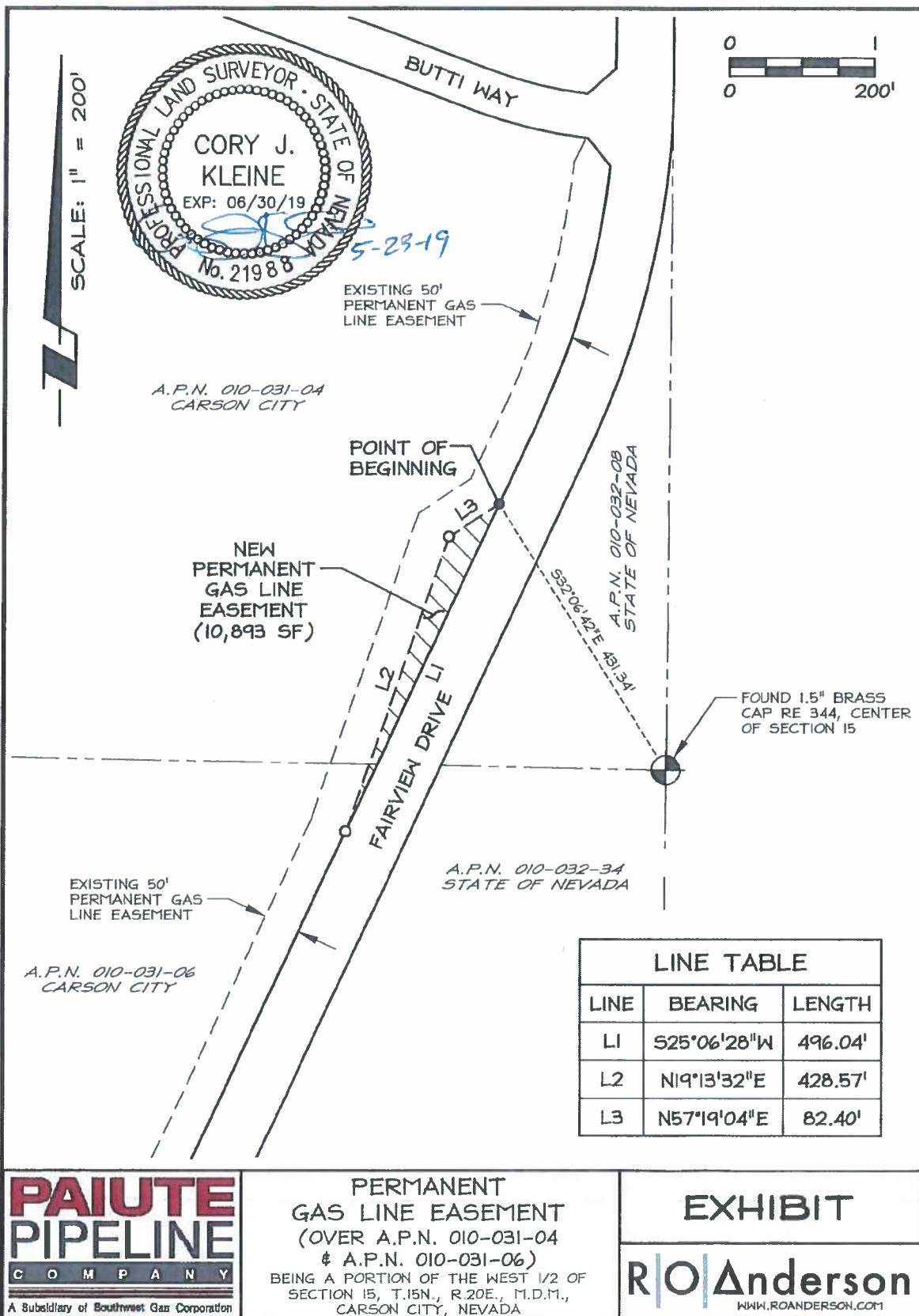
STATE OF _____)

COUNTY OF _____)

This instrument was acknowledged before
me on this _____ day of _____ 20_____
by _____.

Notary Public

EXHIBIT A



2493-008
05/21/19
Page 1 of 1

**DESCRIPTION
PERMANENT GAS LINE EASEMENT
(OVER A.P.N. 010-031-04 & 010-031-06)**

All that real property situate in Carson City, State of Nevada, described as follows:

A strip of land for gas line easement purposes located within a portion of the west one-half (W1/2) of Section 15, Township 15 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

BEGINNING at a point from which the center of said Section 15 bears South 32°06'42" East, 431.34 feet, said point falling on the westerly right-of-way line of Fairview Drive per the Record of Survey to Support a Boundary Line Adjustment for Thomas & Tonia Kathryn Porada and State of Nevada filed for record April 23, 2015 in the office of Recorder, Carson City, Nevada as Document No. 452584;

thence along said westerly right-of-way line of Fairview Drive, South 25°06'28" West, 496.04 feet to a point on the easterly line of an existing 50' permanent gas line easement;

thence along said 50' permanent gas line easement, North 19°13'32" East, 428.57 feet;

thence North 57°19'04" East, 82.40 feet to the **POINT OF BEGINNING**, containing 10,893 square feet, more or less.

The basis of bearing for this description is North 00°42'53" East, the grid bearing between G.P.S. monuments "CC 010" and "CC 094" as shown on that Record of Survey of the 2010 Carson City Control Network filed for record August 11, 2010 in Office of Recorder, Carson City, Nevada, as File No. 403435.

Prepared By: R.O. ANDERSON ENGINEERING, INC.
Cory J. Kleine, P.L.S. 21988
P.O. Box 2229
Minden, Nevada 89423

