

United States Department of Interior
Bureau of Land Management
Carson City District

Conservation Easement

This conservation easement is made this 22nd day of December, 2010, between UNITED STATES OF AMERICA, DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, hereinafter referred to as BLM, and CARSON CITY, NEVADA, and its assigns, hereinafter referred to as Carson City,

WHEREAS, the Congress of the United States of America has directed transfer of Silver Saddle Ranch and Carson River Area, approximately 3,604 acres, hereinafter referred to as the Property, subject to the reservation of a conservation easement, to Carson City under the authority of the Omnibus Public Lands Management Act of 2009 (OPLMA), Pub. L. No. 111-11, Section 2601; and

WHEREAS, BLM, acting through the Secretary of Interior, in consultation with Carson City and affected local interests, shall reserve a perpetual conservation easement to protect, preserve, and enhance the conservation values of the Property; and

WHEREAS, the Property shall be managed by Carson City to protect and enhance the Carson River, the floodplain and surrounding upland, and important wildlife habitat; and

WHEREAS, Carson City may use the Property for undeveloped open space, passive recreation, customary agricultural practices, and wildlife protection; and

WHEREAS, notwithstanding the above, Carson City may construct and maintain trails and trailhead facilities, conduct fuels reduction projects, maintain or reconstruct any improvements on the Property that were in existence on March 31, 2009, and allow the use of motorized vehicles on designated roads, trails and areas in the south end of Prison Hill; and

WHEREAS, the conservation values as defined in OPLMA include undeveloped open space, natural characteristics, trails and trailheads, flood management, Carson River floodplain, uplands, and wildlife habitat, passive recreation, customary agriculture, fuels management, existing ranch structures and motorized vehicle use at south Prison Hill; and

WHEREAS, the development of the conservation easement is guided by the results of a planning and design charrette completed in December 2008, entitled "Creating a Community Vision: Silver Saddle Ranch and the Carson River"; and

WHEREAS, BLM and Carson City mutually agree that the conservation values also include protection of natural resources, preservation of the Property for solitude and nature observation, maintaining green irrigated pastures and hay fields at Silver Saddle Ranch, protecting scenic resources including the preservation of dark skies, protecting cultural resources including the historic structures at Silver Saddle Ranch, promoting environmental education and interpretation, allowing public access, promoting the quality of life, safety and tourism; and

Whereas, the Conservation Easement will help implement the 2006 Envision Carson City Master Plan Guiding Principles and Goals by creating a compact and efficient pattern of growth, balancing development with the conservation of the natural environment at the urban interface, and promoting stewardship of the natural environment; and

WHEREAS, The statutes of the State of Nevada, regarding "Easements for Conservation", at Nevada Revised Statutes, Sections 111.390 to 111.440, inclusive, recognize the protection of the natural, scenic or open-space values of real property.

NOW THEREFORE, BLM in consideration of the above, hereby reserves to the United States of America, a perpetual conservation easement to the Property to protect, preserve, and enhance the conservation values of the land. The BLM reserves a right of access for its designated representatives over any and all lands under this Easement and as reasonably necessary to verify compliance by Carson City with the terms and conditions of the Easement and exercising BLM's rights under the Easement.

1. Purpose. It is the purpose of this Easement to protect, preserve, and enhance the conservation values of the Property in perpetuity and prevent any uses or development of the property that would conflict, impair, or interfere with those values, including, but not limited to, any future residential, non-agricultural commercial, industrial, mining or other incompatible development or improvements of the Property, unless expressly allowable under this Easement. It is the mutual interest of the BLM and Carson City to manage the Property for undeveloped open space, passive recreation, customary agricultural practices, and wildlife protection consistent with the conditions described in the Baseline Documentation Report (Exhibit 3).
2. Rights of the BLM. To accomplish the purpose of this Easement the following rights are reserved by the BLM:
 - (a) To preserve and protect the conservation values of the Property
 - (b) To enter upon the Property at reasonable times in order to monitor Carson City's compliance with and otherwise enforce the terms of the Easement
 - (c) To prevent any activity or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by such use or activity, subject to BLM's Remedies (Section 10).
3. Rights of Carson City. As the fee owner of the Property, Carson City may use and enjoy the Property, subject to OPLMA and this Easement, to provide opportunities for passive recreation, nature study, events and public uses.
4. Baseline Documentation. To establish the present condition of the conservation values and man-made features of the Property, so as to properly monitor future uses of the Property and assure compliance with terms hereof, an inventory of the Property's relevant resources, features, conditions, and uses will be completed prior to transfer of the Property to Carson City (hereinafter referred to as the "Baseline Documentation Report". At the time of transfer and reservation of this easement, the BLM and Carson City will review and acknowledge that the Baseline Documentation Report contains an accurate representation of the biological and physical conditions of the Property and of the current and historical uses of the Property.
5. Permitted Uses. Carson City is entitled to use and occupy the Property, including the right to permit others to use and occupy the Property, in all uses not expressly prohibited herein consistent with the conservation purpose and values. Carson City may authorize third party uses of the Property, by lease, permit, or other means as provided, and those authorizations shall be subject to the terms of this

Easement. Carson City shall continue to be fully responsible for compliance with all terms and conditions of this Easement.

Without limiting the foregoing, the following uses and practices, though not necessarily an exhaustive recital of consistent uses and practices, are permitted under this Easement, and are not to be precluded, prevented, or limited by this Easement. They are set forth both to establish specific prohibited and permitted activities and to provide guidance in determining the consistency of other activities with the conservation purpose of this Easement.

- (a) To reside on the Property for the purpose of caretaking and management of the Property.
- (b) The right to lease, rent or permit portions of the Property for agricultural use, together with the right to perform customary agricultural operations for the production of hay, pasture and cattle grazing, including the use of fertilizers, pesticides, herbicides and biocides in accordance with the Management Plan (Section 7), current environmental standards and practices and all applicable laws and regulations.
- (c) The right to prevent trespass and control access to the Property.
- (d) The right to use water resources, including treated effluent, on the Property for use in agricultural operations, wetlands management and for public consumption on the Property.
- (e) The right to store, gather, or dispose of agricultural products and byproducts on the Property, including, but not limited to, agricultural refuse, burn piles, and animal remains, so long as it is done in accordance with all applicable laws and regulations.
- (f) The right to maintain and replace existing facilities and structures. Replacement of existing facilities and structures must be approved by the BLM in writing, consistent with the conservation purpose and values. The size, location, style and use of the replaced facilities and structures will be considered by BLM in determining consistency with the conservation purpose and values.
- (g) The right to conduct or permit passive recreation activities on the Property. Passive recreation are those activities that are temporary in nature and do not require development of permanent structures or facilities not already in place as of March 31, 2009 unless otherwise allowed under this Easement. Passive recreation may include without limitation fishing, birding, nature observation, hiking, running, mountain biking, equestrian riding, including horse drawn wagons and carriages, non-motorized boating, geo caching, swimming, and picnicking.
- (h) The right to conduct or permit events on the Property. Events will be guided by the Management Plan (Section 7) and limited in size, frequency, duration, location and season of use, commensurate with the capacity of existing facilities and in a manner that would not conflict, impair, or interfere with the conservation purpose and values. Events may include without limitations private weddings and parties, music concerts, running events, environmental education, equestrian activities.
- (i) Except for official use, the right to use or permit the use of motorized off highway vehicles (OHV) on designated roads, trails and areas located in the south end of Prison Hill, consistent with the Management Plan (Section 7). OHV use may be restricted or prohibited if necessary to meet the objectives of the conservation purpose and values. OHVs may be allowed to use specific staging area(s) and designated trails located east of Sierra Vista Road, formerly known as Mexican Dam Road, for the purpose of access to the Pine Nut Mountains.
- (j) The right to construct and maintain trails and trailhead facilities.
- (k) The right to conduct fuels reduction projects. Vegetation may be removed, mowed, burned or otherwise treated, to reduce or eliminate fuels to suppress wildland fire in accordance with the conservation purpose and values of this Easement.

6. **Prohibited Uses.** Carson City is prohibited from uses or development of the property that would conflict, impair, or interfere with the conservation purpose and values of this Easement.

The following activities and uses, though not an exhaustive recital of inconsistent uses and practices, are inconsistent with the conservation purpose and values of this Easement, and are expressly prohibited upon or within the Property.

- (a) The legal or *de facto* subdivision of the Property for any purpose, except as may be required by law for the uses permitted in Section 5 or for a voluntary conveyance to a government or nonprofit entity for public access expressly permitted in Section 5.
 - (b) Residential, non-agricultural commercial, industrial, mining, power production, municipal water development or other incompatible development or improvements of the Property, excepting production of power from wind, geothermal or solar facilities for exclusive use on the Property.
 - (c) The sale, transfer or conveyance of the Property, or a portion of the Property, in accordance with OPLMA and subject to a reversionary interest held by the United States.
 - (d) Organized sports requiring dedicated, constructed fields or courts.
 - (e) OHV use except in designated areas.
 - (f) Golf courses
 - (g) Hunting, over-night camping unless approved as part of an event, disc golf, paint ball games and hot air balloons
 - (h) Events – motorized events (other than OHV events at South Prison Hill), fairs & carnivals, cars shows and rodeos.
 - (i) Disposal or unlawful storage of hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, (CERCLA), 42 USC 9601 *et seq.*
7. **Management Plan.** Carson City will prepare a Management Plan for the Property to be completed within one year from execution of this Easement. The Management Plan will be prepared in consultation with the public and BLM and submitted to BLM for approval. The Management Plan will direct the use and occupancy of the Property, including agricultural operations, public day use and events. The Management Plan will consider the following factors in determining consistency with the conservation purpose and values for events: Size, duration, frequency, location and season of use. The Management Plan will also describe and direct appropriate use and occupancy for specific land use areas, including: Carson River – floodplain and riparian corridor; Prison Hill – motorized and non-motorized areas; agricultural lands – irrigated and non-irrigated; Historic Ranch Complex – Red House, White House, outbuildings and corrals; Ambrose Carson River Natural Area; Wetlands – mitigation wetland area; and East Silver Saddle Ranch - motorized staging areas. BLM and Carson City will meet not less than every five years to review and, if necessary, modify the Management Plan to ensure that use and occupancy of the Property is consistent with the Conservation Purpose and Values.
8. **Prior Notice and Approval**
- (a) **Prior Notice.** Where required in this Conservation Easement, BLM has the right to require Carson City to submit proposals for advanced approval by the Authorized Officer. This is to afford the BLM an opportunity to ensure that the proposed activities are designed and carried out in a manner consistent with the purposes of this Conservation Easement. Carson City shall not undertake or permit any activity requiring prior approval by BLM without first having notified and received approval from BLM as provided herein. Whenever notice is required, Carson City shall notify BLM in writing not less than forty-five (45) days prior to the date Carson City intends to undertake the proposed activity. The notice shall describe all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and any other relevant information

regarding the proposed activity, in sufficient detail to permit BLM to make an informed judgment as to its consistency with the purpose and values of this Conservation Easement.

- (b) BLM's Approval. Where BLM's approval is required, BLM shall grant or withhold its approval and notify Carson City in writing within forty-five (45) days of receipt of Carson City's written request for approval provided that adequate information to evaluate the request has been received by the BLM. BLM's failure to respond in writing to Carson City's request within forty-five (45) days of receipt shall not be deemed approval by BLM. BLM's approval may be withheld only upon reasonable determination by BLM that the proposed action would be inconsistent with the purpose of this Easement, or if additional information from Carson City is necessary to evaluate the proposed action.
9. Monitoring – The BLM will conduct a field inspection of the Property, at least annually, for the oversight and enforcement of the Easement subject to the following provisions:
- (a) BLM will provide prior reasonable notice to Carson City to enter the Property for the purpose of an inspection(s);
 - (b) Carson City and BLM mutually agree to participate and cooperate in the performance of the field inspection(s) and any follow up meetings;
 - (c) BLM's costs for the inspections, including labor, vehicles and other incidental expenses, will be reimbursed from the Silver Saddle Endowment Account, an account established in the Treasury of the United States and funded by Carson City.
10. Enforcement- BLM may prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement, and to require and enforce the restoration of such areas or features of the Property that may be impaired, interfered with, or damaged by any inconsistent activity or use permitted by Carson City.
11. BLM'S Remedies. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Conservation Easement, the parties shall meet together to discuss the dispute and attempt resolution. In evaluating whether a particular use of the Property conflicts, impairs, or interferes with the conservation purpose and values, both the magnitude and duration of the actual and expected effect on the conservation purpose and values will be taken into account. The prohibited uses of the Property expressly set forth in Section 6 are in conflict with the conservation purpose and values of this Conservation Easement. In the event that BLM and Carson City cannot resolve any dispute hereunder, the provisions of this Conservation Easement are enforceable by BLM, its successors or assigns, through all remedies available at law or in equity.
- (a) Notice of Violation. If BLM determines that a violation of the terms of this Conservation Easement has occurred or that a violation is threatened, BLM shall give written notice to Carson City of such violation and demand corrective action sufficient to cure the violation. If Carson City fails to cure the violation within a reasonable timeframe as specified by BLM, after receipt of notice thereof from BLM, or fails to continue diligently to cure such violation until finally cured, BLM may seek injunctive relief as set forth herein.
 - (b) Injunctive Relief. Where irreparable harm may occur, BLM in its sole judgment may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
 - (c) Damages. BLM shall be entitled to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting Carson City's liability therefore, BLM, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

- (d) **Emergency Enforcement.** If BLM, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, or to prevent a material breach or extinguishment of the Conservation Easement, BLM may pursue its remedies under this section without prior notice to Carson City or without waiting for the period provided for to expire.
- (e) **Scope of Relief.** BLM's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. The parties agree that BLM's remedies at law for any violation of the terms of this Conservation Easement may be inadequate and that BLM shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which BLM may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. BLM's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- (f) **Costs of Enforcement.** In any action, suit, or other proceeding undertaken to enforce the provisions of this Conservation Easement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses including attorneys' and experts' fees as allowed by law, and if such prevailing party recovers judgment in any action or proceeding, such costs and expenses shall be included as part of the judgment. In addition, in the event BLM prevails in any such action that results in an order directing Carson City to undertake restoration, then Carson City shall bear all costs thereof.
- (g) **BLM's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of BLM, and any forbearance by BLM to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Carson City shall not be deemed or construed to be a waiver by BLM of such term or of any subsequent breach of the same or any other term of this Conservation Easement, or any of BLM's rights under this Conservation Easement.
- (h) **Waiver of Certain Defenses.** Carson City acknowledges that it has carefully reviewed the Conservation Easement. In full knowledge of the provisions of this Conservation Easement, BLM hereby waives any claim or defenses it may have against Carson City or its successors in interest under or pertaining to this Conservation Easement based upon waiver, laches, estoppel, adverse possession, or prescription.
- (i) **Acts Beyond Carson City's Control.** Nothing contained in this Conservation Easement shall be construed to entitle BLM to bring any action against Carson City for any injury to or change in the Property resulting from causes beyond Carson City's control, including without limitation, fire, flood, storm, and natural earth movement, or from any prudent action taken by Carson City under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; provided that Carson City shall notify BLM of such change in the Property and any emergency actions taken by Carson City.

12. Costs, Liabilities, and Indemnification

- (a) **Costs Incident of Ownership.** Carson City retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage. BLM shall have no obligation for the upkeep or maintenance of the Property. Carson City shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Carson City; provided that nothing in this section shall prohibit Carson City from recording

a deed of trust against the Property to secure Carson City's indebtedness as long as such deed of trust shall remain subordinate to this Conservation Easement.

- (b) Taxes. Carson City shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), if any, including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish BLM with satisfactory evidence of payment upon request. BLM shall have no obligation to pay any taxes levied on or assessed against the Property.
- (c) Indemnification. Carson City shall hold harmless, indemnify, and defend BLM its officers, employees, agents, and contractors, its successors and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, fines, costs, losses, damages, expenses, causes of action, claims, demands, or judgments of any kind or nature arising from the past, present, and future acts or omissions of Carson City or its employees, agents, contractors, or lessees (collectively "Carson City et al."), including, without limitation, reasonable attorneys' and experts' fees arising from or in any way connected with Carson City et al.'s uses, occupancy, or operation on the Property which has already resulted or does hereafter result in: (1) violations of federal, state, and local laws and regulations that are now, or may in the future become, applicable to the Property; (2) judgments, claims, or demands of any kind against the Indemnified Parties, unless due to the negligence or willful misconduct of any of the Indemnified Parties; (3) costs, expenses, or damages of any kind against the Indemnified Parties, unless due to the negligence or willful misconduct of any of the Indemnified Parties; (4) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the negligence or willful misconduct of any of the Indemnified Parties; (5) the breach by Carson City et al. of any of its obligations set forth in this Conservation Easement; (6) the existence or release or threatened release off, on, into, or under the Property of any hazardous waste(s), substance or other contaminants as they are now and may hereafter be defined under any local, state, and federal statute, law or regulations, unless due to the negligence or willful misconduct of any of the Indemnified Parties; (7) activities by which solid or hazardous substances or waste, as defined by federal or state laws are generated, released, stored, used or otherwise disposed of on the Property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes, unless due to the negligence or willful misconduct of any of the Indemnified Parties; or (8) natural resource damages as defined by federal or state law. Carson City's obligations under this section shall not apply with respect to any such hazardous waste, substance or other contaminants released on the Property by any of the Indemnified Parties the Indemnified Parties' representatives or agents.

13. General Provisions.

- (a) Controlling Law. The laws of the United States of America and the State of Nevada shall govern the interpretation and performance of this Conservation Easement.
- (b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of protecting the Conservation Values and the purpose of this Conservation Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render the provision invalid.
- (c) Severability. If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions and purposes of this

Conservation Easement, and/or the application of such provision to person or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

- (d) Entire Agreement. The instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Conservation Easement, all of which are merged herein.
 - (e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Carson City's title in any respect.
 - (f) Joint Obligations. The obligations imposed by this Conservation Easement upon Carson City shall be joint and several.
 - (g) Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property. The terms "Carson City" and "BLM," wherever used herein, and any pronouns used in place thereof, shall include, respectively, Carson City and all of Carson City's successors and assigns, and
 - (h) Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
 - (i) Captions. The captions in this instrument have been inserted solely for convenience of reference, are not a part of this instrument, and shall have no effect upon construction or interpretation.
 - (j) Perpetual Duration. This Conservation Easement shall constitute a covenant and servitude running with the land in perpetuity. Every provision of this Conservation Easement that applies to Carson City or BLM shall also apply to such party's respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear.
14. Exhibits. The following exhibits are attached hereto and incorporated into this Conservation Easement:
- Exhibit A: OPLMA Map of November 7, 2008
 - Exhibit B: Map of the Silver Saddle Ranch Carson River Area Conservation Easement

IN WITNESS WHEREOF, the City and BLM have fully executed this Agreement as of the date first above written.

“GRANTOR”
BUREAU OF LAND MANAGEMENT



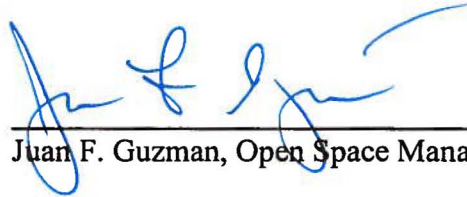
Linda J. Kelly
Field Manager
Sierra Front Field Office
Carson City District

DATE: Dec 22, _____, 2010

“GRANTEE”
CARSON CITY

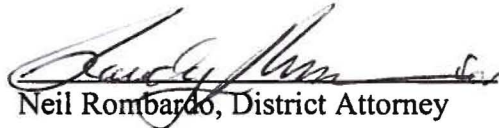


Robert L. Crowell, Mayor



Juan F. Guzman, Open Space Manager

Approved as to form:



Neil Rombardo, District Attorney

DATE: 12/16 _____, 2010