

DS #: 4612

APN: 125-01-402-020

PROJECT: IRON MOUNTAIN/BRADLEY

SUBMITTAL: BLM GRANT

SCANNED BY/DATE:

CHECKED BY/DATE:



CITY OF LAS VEGAS		DATE:
INTER-OFFICE MEMORANDUM		November 9, 2015
TO: Land Development Services Department of Building & Safety		FROM: Albert Sung, P.E. Flood Control Project Engineer Department of Public Works
SUBJECT:	Drainage Study for:	COPIES TO:
	Iron Mountain / Bradley – Update #3	Slater Hanifan Group
Cross Streets:	NEC of Iron Mountain Rd. & Leon Ave.	Richmond American Homes
File Number:	F:\Depot\DSMemos\DS4612F.doc	Bart Anderson, P.E., DevCo
Parcel Number:	125-01-402-020	
Zoning Action:	TMP-49575; ZON-48851 & VAR-49577 to VAR-49617	
FEMA Flood Zone	YES NO X	
Proposed Storm Drain	YES X NO	

HISTORY	DATE RECEIVED	DATE REVIEWED	COMMENTS	REVIEW FEES	FEES PAID Payment Trn #
1 st Submittal	7/8/2013	7/22/2013	Not Approved	\$400.00	325434: \$400
2 nd Submittal	8/5/2013	8/19/2013	Conditional Approval	\$400.00	328831: \$400
3 rd Submittal	11/21/2013	12/4/2013	Conditional Approval	\$100.00	340078: \$100
4 th Submittal	3/4/2014	3/18/2014	Conditional Approval	\$100.00	349703: \$100
5 th Submittal	8/21/2014	8/28/2014	Conditional Approval	\$100.00	367786: \$100
BLM Grant	11/4/2015	11/9/2015	BLM Drainage Easement Grant Received	N/C	N/C
			TOTAL FEES (LDDRS):	\$1,100.00	----

REMARKS:

5th Submittal: Update #3 for the Vacation of the east half of Leon Avenue

4th Submittal: Update #2 to revise pad and finish floor elevations for the whole site

The Drainage Study for the subject project has been reviewed and:

X	is approved subject to conformance to all City standards and the following conditions:
	must be resubmitted or supplemented including the following:
	is conditionally approved subject to Clark County Regional Flood Control District concurrence.
	is conditionally approved subject to receipt of a notarized letter of permission from adjacent property owner to the north of the subject site.
	is conditionally approved subject to documentation of drainage easement grant from BLM

NOTE: Any future changes to the proposed design (or design assumptions) as outlined in the approved drainage study and attached preliminary grading plan which affect drainage must be addressed in a Drainage Study Update and accepted by the *City of Las Vegas Flood Control Section*. Additionally, conditional acceptance of a drainage study is valid for a period of one (1) year. If the proposed construction has not been completed in that time period, the *City of Las Vegas* reserves the right to require additional conditions and/or submission and acceptance of a complete drainage study update prior to further construction of a project.

NOTE: Please be advised that all land surface area disturbances over 1 acre or any area adjacent to a water way must submit to the *Nevada Division of Environmental Protection* a "Notice of Intent" to discharge that certifies a stormwater pollution prevention plan has been developed and is maintained on site; for inclusion in the Stormwater General Permit No. NVR100000. A phased construction unit in a contiguous subdivision is considered under construction until all stripped or disturbed surface areas have been covered by paving, building construction or planting. For more information, including forms and applications see <http://ndep.nv.gov/bwpc/storm01.htm> or call (775) 687-9429.

END OF REMARKS

ays

T/R/S: T19S/R60E/01
AREA G-01

 *** FAX TX REPORT ***

TRANSMISSION OK

JOB NO. 3083
 DESTINATION ADDRESS 7022845399
 PSWD/SUBADDRESS
 DESTINATION ID
 ST. TIME 11/09 09:43
 USAGE T 00' 33
 PGS. 2
 RESULT OK

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Albert Sung

From: Angela Pinley <apinley@shg-inc.com>
Sent: Wednesday, November 04, 2015 10:34 AM
To: David Guerra; Michael Cunningham; Ralph Kouns; Albert Sung
Cc: Todd Steadham; Chelsea Jensen
Subject: FW: Iron Mountain and Bradley H#51217
Attachments: 160824 RAH1305 Recorded BLM Grant.pdf

Hi David,

Attached is the recorded BLM grant for the Iron Mt and Bradley project. Let me know if you need anything else.

Thank you,

Angela Pinley, P.E.
Assistant Project Manager

SLATER HANIFAN GROUP *"The Benchmark of Our Profession."*

LAS VEGAS
5740 S. ARVILLE STREET #216
LAS VEGAS, NV 89118
PHONE: (702) 284-5300
FAX: (702) 284-5399
www.shg-inc.com

PHOENIX
11201 N. TATUM BLVD. #250
PHOENIX, AZ 85028
PHONE: (602) 687-9664

LAKE HAVASU CITY
60 S. ACOMA BLVD. #C104
LAKE HAVASU CITY, AZ 86403
PHONE: (928) 202-4104
FAX: (602) 483-1007

Any files contained within are to be used for information ONLY. Accuracy and/or design information to be verified from approved original plans. Use of electronic media is at the sole risk of the user.

From: David Guerra [<mailto:DGuerra@LasVegasNevada.GOV>]
Sent: Tuesday, November 03, 2015 3:10 PM
To: Doug Bergstrom
Cc: Chelsea Jensen; Michael Cunningham; Ralph Kouns; Albert Sung
Subject: FW: Iron Mountain and Bradley H#51217

This project has been requested to be moved for closing out. It has been brought to attention that a needed BLM grant has not been received. If the grant has been obtained ensure a copy is transmitted to the City of Las Vegas. If not please inform me when the grant will be obtained or if improvements in lieu are to be expected.

David Guerra, Project Engineer
City of Las Vegas - Department of Building & Safety
Civil and Planning Development
Development Services Center
333 N. Rancho Dr.
Las Vegas, NV 89106
(702) 229-1287 fax (702) 474-7369
dguerra@lasvegasnevada.gov

Building Community to Make Life Better

City of Las Vegas Building & Safety

Your opinion is important! Click [here](#) to take a short survey.

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From: Albert Sung
Sent: Tuesday, November 03, 2015 2:50 PM
To: David Guerra
Cc: Michael Cunningham
Subject: RE: Iron Mountain and Bradley H#51217

David,

We are still waiting for the BLM grant for drainage easement.

Albert

From: David Guerra
Sent: Tuesday, October 27, 2015 2:09 PM
To: Albert Sung
Cc: Michael Cunningham
Subject: FW: Iron Mountain and Bradley H#51217

Albert,

A hold was placed on this project pending Flood Control getting grant of BLM easements or alternate facilities without a BLM grant. Please let me know if Happy or not with this project.

David Guerra, Project Engineer
City of Las Vegas - Department of Building & Safety
Civil and Planning Development
Development Services Center
333 N. Rancho Dr.
Las Vegas, NV 89106
(702) 229-1287 fax (702) 474-7369
dguerra@lasvegasnevada.gov

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From: Michael Cunningham
Sent: Tuesday, October 27, 2015 2:00 PM

To: David Guerra

Subject: Iron Mountain and Bradley H#51217

Hello David,

There is a bond hold on this project that you added. Are we still waiting on the documentation?

Thank you,

Mike C.

132

Inst #: 20150824-0001053
Fees: \$0.00
N/C Fee: \$0.00
08/24/2015 12:03:42 PM
Receipt #: 2534377
Requestor:
CITY OF LAS VEGAS
Recorded By: GLORD Pgs: 32
DEBBIE CONWAY
CLARK COUNTY RECORDER

**WHEN RECORDED
SEND TAX STATEMENTS TO:**

City Clerk – City Hall
495 s Main St
Las Vegas, Nevada 89101

APN#: 125-01-701-001

**TITLE ON DOCUMENT: RIGHT OF WAY GRANT /TEMPORARY
USE PERMIT**

REFERENCE: N-93183
(DRAINAGE FACILITIES)

This page has been added to comply with NRS 247.110, Section 4.



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Southern Nevada District Office
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
<http://www.blm.gov/nv/st/en.html>

In Reply Refer To:
N-93183
2800 (NVS01000)

9171 9690 0935 0096 2684 97

CERTIFIED MAIL

- RETURN RECEIPT REQUESTED

DECISION

City of Las Vegas	:	
Ms. Nancy Almanzan	:	
333 N. Rancho Dr. Floor 8	:	Right-of-Way
Las Vegas, Nevada 89106	:	

Right-of-Way Grant N-93183 Issued
Rental Determined
Monitoring Fee Determined

Enclosed is your copy of right-of-way (ROW) grant N-93183 for drainage on public lands.

Under cost recovery regulations, the Authorized Officer must determine the appropriate category and collect the required fees necessary for the monitoring of the ROW. This fee is categorized according to the number of work hours necessary to complete the monitoring of the ROW. We have estimated the monitoring for this case to be a Category II. The monitoring fee for this category, as determined by 43 CFR 2805.16(a) is \$424.00. The regulations for reimbursement of costs are not applicable to local governments, as set forth in 43 CFR 2804.16(a). Clark County is exempt from collection of monitoring fees.

Rent for use of public lands must be paid in advance and prior to issuance of the ROW grant. The regulations for reimbursement of costs for rental are not applicable to local governments, as set forth in 43 CFR 2804.16(a). City of Las Vegas is exempt from collection of annual rental fees.

In accordance with U.S. Fish and Wildlife Service Biological Opinion File No. 1-5-96-F-23R.3, applicants shall pay an off-site mitigation fee at the rate of \$836.00 per acre for disturbance on projects occurring on public lands. The total mitigation fees due for this project is \$267.52 (\$836 X 0.32 acres). The mitigation fees for this project have been paid (copy of receipt enclosed). You may proceed with your project.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within

30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

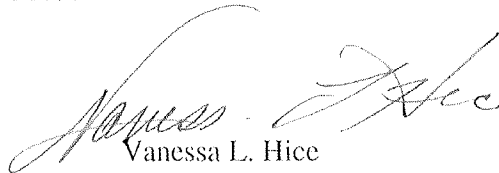
If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions, you may contact Luis Rodriguez, Realty Specialist, by e-mail at lrodriguez@blm.gov or by phone at (702) 515-5069.


Vanessa L. Hice
Assistant Field Manager
Division of Lands

Enclosure

United States Department of the Interior
Bureau of Land Management
DIV OF SUPPORT SERVICES
1340 FINANCIAL BLVD
RENO, NV 89502
Phone: (775) 861-6400

Receipt

No: 3350121

Transaction #: 3447953	
Date of Transaction: 07/24/2015	
CUSTOMER:	
RICHMOND AMERICAN HOMES OF NEVADA, INC 7770 DEAN MARTIN DR STE 308 LAS VEGAS, NV 89139-6603 US	

LINE #	QTY	DESCRIPTION	REMARKS	UNIT PRICE	TOTAL
1	1.00	CONTRIBUTED FUNDS-ALL OTHER / 7122 FLPMA / ALL OTHER RES DEV, PROTECT & MGMT PROJECT: LVTFXX000800	LLNV934000 LVTFXX000800 L71220000.JP0000 DESERT TORTOISE CONSERVATION PROGRAM	267.52	267.52
TOTAL:					\$267.52

PAYMENT INFORMATION			
1	AMOUNT:	267.52	POSTMARKED: 07/15/2015
	TYPE:	CHECK	RECEIVED: 07/24/2015
	CHECK NO:	1028634	
	NAME:	RICHMOND AMERICAN HOMES OF NEVADA INC 7770 S. DEAN MARTIN DR STE 308 LAS VEGAS NV 89139-6603 US	

REMARKS

This receipt was generated by the automated BLM Collections and Billing System and is a paper representation of a portion of the official electronic record contained therein.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT / TEMPORARY USE PERMIT

Issuing Office
Las Vegas Field Office
Serial Number
N-93183

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. ☒ Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776 43 U.S.C. 1761);
- b. ☐ Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. ☐ Other (describe) _____.

2. Nature of Interest:

a. By this instrument, the holder, City of Las Vegas, a political subdivision of the State of Nevada, receives a right to construct, operate, maintain, and terminate a right-of-way for drainage, and related facilities on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Mount Diablo Meridian, Nevada
T. 19 S., R. 60 E.,
sec. 1, lot 15.

(Containing approximately 0.81 acres)

A map showing the location of the right-of-way is on file with the Bureau of Land Management, Las Vegas Field Office N-93183.

- b. The right-of-way or permit area granted herein is 20 to 48 feet wide, 1,391 feet in length, and contains 0.81 acres, more or less. If a site type facility, the facility contains N/A acres.
- c. This instrument shall be granted in perpetuity, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument ☐ may ☐ may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest. NOT APPLICABLE
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices. NOT APPLICABLE

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibits A, B, and C, dated AUG 10 2015, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

Nancy J. Almangor
(Signature of Holder)

CITY OF LAS VEGAS
RIGHT OF WAY MANAGER
(Title)

7/8/15
(Date)

Vanessa L. Hice
Vanessa L. Hice
Assistant Field Manager
Division of Lands

(Title)

8/10/15
(Effective Date of Grant)

Exhibit A
Stipulations for N-93183

1.0 Special Stipulations

- 1.1. The Holder shall notify the Bureau of Land Management (BLM), Wildlife Biologist staff, at 702-515-5000 of their construction schedule at least 10 days before initiation of the project. Failure to abide by the terms and conditions of the grant and Biological Opinion, could result in temporary suspension of all activities within your right-of-way area per 43 CFR 2807.16 and 43 CFR 2807.17.
- 1.2. Should a tortoise be killed, injured, handled, or penned, you will need to have an Authorized Desert Tortoise Biologist complete Appendix E (see attached Terms and Conditions for Biological Opinion). Please forward Appendix E to the BLM, Attn: Wildlife Biologist, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130. Failure to abide by the terms and conditions of the grant and Biological Opinion, could result in temporary suspension of all activities within your ROW area per 43 CFR 2807.16 and 43 CFR 2807.17.
- 1.3. Holder must complete and return Appendix F (see attached Terms and Conditions for Biological Opinion). Please forward Appendix F, along with the payment required, to the BLM State Office, Attn: Information Access Center, 1340 Financial Blvd. Reno, Nevada 89502. Please be aware, you may not conduct any activities, nor begin construction on public land until you have paid the tortoise mitigation fees. Failure to abide by the terms and conditions of the grant and Biological Opinion, could result in temporary suspension of all activities within your ROW area per 43 CFR 2807.16 and 43 CFR 2807.17.
- 1.4. The Holder must complete and return Appendix G (see attached Terms and Conditions for Biological Opinion) herein annually and/or upon completion of construction of the project. Please forward Appendix G to the BLM, Attn: Wildlife Biologist, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130. Failure to abide by the terms and conditions of the grant and Biological Opinion, could result in temporary suspension of all activities within your ROW area per 43 CFR 2807.16 and 43 CFR 2807.17.
- 1.5. The Holder must abide by monitoring, maintenance, and reporting requirements per the Biological Opinion. Failure to abide by the terms and conditions of the grant and Biological Opinion, could result in temporary suspension of all activities within your ROW area per 43 CFR 2807.16 and 43 CFR 2807.17.

2.0 General Stipulations

- 2.1. The right-of-way (ROW) is issued subject to all valid existing rights.
- 2.2. No signs of advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.

AUG 10 2015

- 2.3. The ROW shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. The holder shall ensure that the road has a proper drainage system and should include the best combination of various design elements, such as ditches, culverts, drainage dips, crowns, low-water crossings, subsurface drains and bridges, per Clark County standards.
- 2.5. Holder shall mark the exterior boundaries of the ROW with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.6. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this ROW within its authorized limits.
- 2.7. Holder shall maintain the ROW in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.
- 2.8. Pursuant to 43 CFR 2807.17(a) and 43 CFR 2807.17 (3)(c), BLM may suspend or terminate your grant if you do not comply with applicable laws and regulations or any terms, conditions, or stipulations of the grant (such as rent payments), or if you abandon the right-of-way. Failure to use your right-of-way for its authorized purpose for any continuous 5-year period creates a presumption of abandonment.
- 2.9. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying this ROW, encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.
- 2.10. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the ROW:

Acceptable data formats are:

AUG 10 2015

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:
ARCGIS interchange, shapefile or geodatabase format.
CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the ROW and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the ROW.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

- 3.2. Ensure a dust control permit is obtained through Department of Air Quality (DAQ) for all soil disturbing activity of .25 acres or greater, in the aggregate, and permit stipulations are in compliance for the duration of the activity.
- 3.3. Prior to relinquishment, abandonment, or termination of this ROW, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.
- 3.4. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the ROW area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the ROW potentially affecting the ROW of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the ROW.
- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer. The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year. Pesticides shall not be permanently stored on public lands authorized for use under this ROW.
- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the ROW), the United States against any liability arising from the Holder's use or occupancy of the right-of way, regardless of whether the Holder has actually developed or caused development to occur on the ROW, from the time of the issuance of this ROW to the Holder, and during the term of this ROW. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the ROW.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of way regardless of

whether the Holder has actually developed or caused development to occur on the ROW from the time of the issuance of this ROW to the Holder and during the term of this ROW.

- 5.6. Mineral material generated, and not needed for the development of the proposed action within the ROW site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of the excess mineral material.

6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

7.0 Vegetation/Noxious Weeds/Land surface/Soil/Water/Riparian/Woodland/Forestry

- 7.1. Woodland /Forestry: The proposed project is in an area known to contain high densities of cactus and yucca. High numbers of cactus and yucca may be present within the project impact area. Cactus and yucca are considered government property and are regulated under the Nevada BLM forestry program. If unable to be avoided, all cactus and yucca within permanent and temporary impact areas must be salvaged and replanted in temporary impact areas or undisturbed portions of the project area. Unless otherwise directed by the BLM botanist, all replanted cactus and yucca must be watered and otherwise maintained for a period of one year. To ensure successful salvage and transplant, all cactus and yucca must be salvaged using a contractor (or other approved by the BLM botanist) with at least three years' experience salvaging and maintaining plant materials in the Mojave or Sonoran Deserts.
- 7.2. The action is administrative in nature and no new disturbances are expected to occur. Continue to follow existing mitigation measures and stipulations for weed prevention and control as established for the adjacent lease. If no measures exist, then follow the LVFO noxious weed compliance requirements as shown below. Coordinate weed management activities with the District Weed Management Specialist. To avoid spreading noxious and/or invasive weeds, project activities shall include the following stipulations:
 1. The project proponent shall avoid or minimize all types of travel through weed-infested areas. If a problem is identified and avoidance or removal is not possible, the project proponent shall set up inspection and equipment cleaning sites to prevent the spread of weeds.
 2. The project proponent shall limit ground disturbance to the absolute minimum necessary to safely construct and operate the proposed project. The applicant will avoid creating soil conditions that promote weed germination and establishment.

3. Project related equipment (i.e. undercarriages and wheel wells) will be cleaned of all mud, dirt and plant parts before each tour. Project workers shall inspect, remove, and dispose of weed seed and plant parts found on their clothing and personal equipment, bag the product and dispose of in a dumpster. If you have questions, consult with the LVFO Noxious Weed Coordinator.

- 7.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 7.4. Land surface treatment for areas previously undisturbed: Strip the top three to six inches of soil material with associated plant material over all surfaces to be disturbed by construction. Stockpile this material along the course of construction will be salvaged and transplanted out of harm's way but still within the right of way. At the conclusion, including trench backfilling and compaction, replace the stockpiled soil with plant debris uniformly back on the surface of the disturbed area.
- 7.5. Soil/Water/Riparian/Floodplains: Applicant must follow guidelines set by the Clark County Regional Flood Control District (CCRFC) and Clark County specifications for design of drainage systems. If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). For floodplains, the project is located within the Las Vegas Valley disposal boundary and the CCRFC is responsible for flood control. Federal Emergency Management Agency (FEMA) standards are applicable.
- 7.6. If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling. Consult with ACOE to make sure you do not need a 404 permit. All holes should be drilled according to the Nevada Regulations for Water Well and Related Drilling, per NRS Statutes 534. All holes should be reclaimed according to NRS and NAC regulations and reclaimed immediately after drilling. If groundwater is intercepted, holes will need to be reclaimed appropriately. Additionally, applicant is responsible for obtaining any CWA permits from NDEP that may be necessary.

8.0 Migratory Birds

- 8.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

9.0 Fish and Wildlife, Excluding Federally Listed Species

- 9.1. Wildlife species in the general area include small mammals, rodents, birds and reptiles. Although there is no new surface disturbance associated with this project, these species may be found on the adjacent undisturbed lands and could wander into the proposed project area. The primary direct impact of the proposed action on wildlife would be mortality resulting from maintenance activities and mortality from vehicular traffic which may be realized due to subsequent use of the project area. Wildlife species in the general area are common and widely distributed throughout the area and the loss of some individuals and/or their habitat would have a negligible impact on populations of the species throughout the region.

10.0 Threatened, Endangered or Candidate Animal Species

- 10.1. The holder will comply with the terms and conditions of the Biological Opinion File No. 84320-2010-F-0365 for this project on file at the Bureau of Land Management, Las Vegas Field Office, and as shown below:

Case Number: N-93183
NEPA Project #: DOI-BLM-NV-S010-2014-0123-CX
Sec. 7 Log #: NV-052-14-201

TERMS AND CONDITIONS for ROWs: BO File No. 84320-2010-F-0365.R002

In order to be exempt from the prohibitions of section 9 of the Act, the Bureau must comply with the following terms and conditions and minimization measures, which implement the reasonable and prudent measures described above. These terms and conditions are non-discretionary.

RPM 1: **Applies towards lands and realty, ROWs, and mining actions and other activities that involve vehicle and equipment use, excavations, or blasting. BLM, and other jurisdictional Federal agencies as appropriate, shall implement or ensure implementation of measures to minimize injury or mortality of desert tortoises due to project construction, operation and maintenance; and most actions involving habitat disturbance.**

Terms and Conditions:

- 1.a. *Field Contact Representative*—BLM shall ensure a Field Contact Representative (FCR) (also called a Compliance Inspection Contractor) is generally designated for each contiguous stretch of construction activity for linear projects or isolated work areas for non-linear projects. The FCR will serve as an agent of BLM and the Service to ensure that all instances of non-compliance or incidental take are reported. BLM has discretion over approval of potential FCRs; however, those who also may be acting as authorized desert tortoise biologists, and must also be approved by the Service (see Term and Condition 1.c). All FCRs will report **directly** to BLM and the Service. The FCR, authorized desert tortoise biologist, and monitors (see Term and Condition 1.c.) shall have a copy of all stipulations when work is being conducted on the site and will be responsible for overseeing compliance with terms and conditions of the ROW grant, including those for listed species. BLM shall ensure the FCR and authorized desert tortoise biologists have authority to halt any activity that is in violation of the stipulations. The FCR shall be on site year-round during all project activities.

Within 3 days of employment or assignment, the project proponent and BLM shall provide the Service with the names of the FCR.

- 1.b. *Authorized desert tortoise biologist*—**required to be on call to relocate any desert tortoises that enter the work area that are in harm's way and act as the projects FCR per Terms and Conditions provided.**

All authorized desert tortoise biologists (and monitors) are agents of BLM and the Service and shall report directed to BLM and the proponent concurrently regarding all compliance issues and take of desert tortoises; this includes all draft and final reports of non-compliance or take. The initial draft report shall be provided to BLM and Service within 24 hours of the observation of take or non-compliance.

1. c. Authorized desert tortoise biologists, monitors, and the FCR (see Term and Condition 1.a.) shall be responsible for ensuring compliance with all conservation measures for the project. This responsibility includes: (1) enforcing the litter-control program; (2) ensuring that desert tortoise habitat disturbance is restricted to authorized areas; (3) ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously-disturbed areas or designated areas; (4) ensuring that all vehicles associated with construction activities remain within the proposed construction zones; (5) ensuring that no tortoises are underneath project vehicles and equipment prior to use or movement; (6) ensuring that all monitors (including the authorized desert tortoise biologist) have a copy of the required measures in their possession, have read them, and they are readily available to the monitor when on the

project site.

An authorized desert tortoise biologist will serve as a mentor to train desert tortoise monitors and will approve monitors if required. An authorized desert tortoise biologist is responsible for errors committed by desert tortoise monitors.

An authorized desert tortoise biologist shall record each observation of desert tortoise handled in the tortoise monitoring reports. Information will include the following: location (GPS), date and time of observation, whether the desert tortoise was handled, general health and whether it voided its bladder, location desert tortoise was moved from and location moved to, unique physical characteristics of each tortoise, and effectiveness and compliance with the desert tortoise protection measures. This information will be provided **directly** to BLM and the Service.

An authorized desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related field. The biologist must have demonstrated prior field experience using accepted resource agency techniques. As a guideline, Service approval of an authorized biologist requires that the applicant have at least 60 days project experience as a desert tortoise monitor. In addition, the biologist shall have the ability to recognize and accurately record survey results and must be familiar with the terms and conditions of the biological opinion that resulted from project-level consultation between BLM and the Service. All tortoise biologists shall be familiar with the field manual (Service 2009).

Potential authorized desert tortoise biologists must submit their statement of qualifications to the Service's Nevada Fish and Wildlife Office in Las Vegas for approval, allowing a minimum of 30 days for Service response. The statement form is available on the internet at:
http://www.fws.gov/nevada/desert_tortoise/auth_dt_form.htm.

Prior to final approval to begin work on the project, the authorized desert tortoise biologists will have read the required measures (terms and conditions and other stipulations) and have a copy of the measures available at all times while on the project site. BLM shall provide the appropriate agency contact for the project to the Service and the Service will include the forms with approval letters. Biologists and monitors should be visibly identifiable on the project site, which may include use of a uniquely designated hardhat or safety vest color.

1. d. *Desert tortoise monitor*—Desert tortoise monitors assist an authorized desert tortoise biologist during surveys and serve as apprentices to acquire experience. Desert tortoise monitors ensure proper implementation of protective measures, and record and report desert tortoises and sign observations in accordance with Term and Condition 1.c. They will report incidents of noncompliance to the authorized desert tortoise biologist or FCR. No monitors shall be on the project site unless supervised by an authorized desert tortoise biologist or approved by the BLM. If a desert tortoise is immediately in harm's way (e.g., certain to immediately be crushed by equipment), desert tortoise monitors may move the desert tortoise then place it in a designated safe area until an authorized desert tortoise biologist assumes care of the animal.

Desert tortoise monitors may not conduct field or clearance surveys or other specialized duties of an authorized desert tortoise biologist unless directly supervised by an authorized desert tortoise biologist or approved to do so by the Service; "directly supervised" means an authorized desert tortoise biologist has direct sight and voice contact with the desert tortoise monitor (i.e., within approximately 200 ft of each other).

Within 3 days of employment or assignment, the project proponent and BLM shall provide the Service with the names of desert tortoise monitors who would assist an authorized desert tortoise biologist.

- 1.e. *Desert tortoise education program*—A desert tortoise education program shall be presented to all

personnel on site during construction activities by an agency or authorized desert tortoise biologist, monitor, FCR or other approved by the BLM. The Service, BLM, and appropriate state agencies shall approve the program. At a minimum, the program shall cover desert-specific Leave-No-Trace guidelines, the distribution of desert tortoises, general behavior and ecology of this species, sensitivity to human activities, threats including introduction of exotic plants and animals, legal protection (the definition of "take" will also be explained), penalties for violation of State and Federal laws, reporting requirements, and project measures in this biological opinion. All field workers shall be instructed that activities must be confined to locations within the approved areas and their obligation to walk around and check underneath and vehicles and equipment before moving them (or be cleared by an authorized desert tortoise biologist). Workers and project associates will be encouraged to carpool to and from the project sites. In addition, the program shall include fire prevention measures to be implemented by employees during project activities. The program shall instruct participants to report all observations of desert tortoise and their sign during construction activities to the FCR and authorized desert tortoise biologist.

- 1.f. *Vehicle travel*—Project personnel shall exercise vigilance when commuting to the project area to minimize risk for inadvertent injury or mortality of all wildlife species encountered on paved and unpaved roads leading to and from the project site. Speed limits will be clearly marked, and all workers will be made aware of these limits. On-site, personnel shall carpool to the greatest extent possible.

During the desert tortoise less-active season (generally November through February), vehicle speed on project-related access roads and in the work area will not exceed 25 mph. All vehicles and construction equipment will be tightly grouped.

During the more-active season (generally March through October), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days, vehicle speed on project-related access roads and in the work area will not exceed 15 mph.

- 1.g. *Unauthorized access*—not required for this project.
- 1.h. *Desert tortoise clearance*—not required for this project.
- 1.i. *Desert tortoise in harm's way*—Any project-related activity that may endanger a desert tortoise shall cease if a desert tortoise is found on the project site. Project activities may resume after an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) removes the desert tortoise from danger or after the desert tortoise has moved to a safe area on its own.
- 1.j. *Handling of desert tortoises*—Desert tortoises shall only be moved by an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) solely for the purpose of moving the tortoises out of harm's way. During construction, operation, and maintenance, an authorized desert tortoise biologist shall pen, capture, handle, and relocate desert tortoises from harm's way as appropriate and in accordance with the most current Service-approved guidance. No tortoise shall be handled by more than one person. Each tortoise handled will be given a unique number, photographed, and the biologist will record all relevant data on the Desert Tortoise Handling and Take Report (Appendix E) to be provided to BLM in accordance with the project reporting requirements.

Desert tortoises that occur aboveground and need to be moved from harm's way shall be placed in the shade of a shrub, 150 to 1,640 ft from the point of encounter. In situations where desert tortoises must be moved more than 1,640 ft (500 m), translocation procedures may be required. Translocation would likely result in a level of effect to the desert tortoise that would require the appended procedures.

If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40 ° F or greater than 95° F), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of an authorized biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be discarded after one use and never hold more than one tortoise. If any tortoise active nests are encountered, the Service must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action.

Desert tortoises located in the project area sheltering in a burrow during the less-active season may be temporarily penned in accordance with Term and Condition 1.k. at the discretion of an authorized desert tortoise biologist. Desert tortoises should not be penned in areas of moderate to heavy public use, rather they should be moved from harm's way in accordance with the most current Service-approved guidance (currently Service 2009).

Desert tortoises shall be handled in accordance with the Desert Tortoise Field Manual (Service 2009). Equipment or materials that contact desert tortoises (including shirts and pants) shall be sterilized, disposed of, or changed before contacting another tortoise to prevent the spread of disease. All tortoises shall be handled using disposable surgical gloves and the gloves shall be disposed of after handling each tortoise. An authorized desert tortoise biologist shall document each tortoise handling by completing the Desert Tortoise Handling and Take Report (Appendix E).

- 1.k. *Pemming*— not required for this project.
- 1.l. *Temporary tortoise-proof fencing*—Not required for this project.
- 1.m. *Permanent tortoise-proof fencing*—Not required for this project.
- 1.n. *Wildlife escape ramps*— Not applicable for the proposed action. See measure 8.d for trenches.
- 1.o. *Dust control*—Water applied to for dust control shall not be allowed to pool outside desert-tortoise fenced areas, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks will be repaired to prevent pooling water.
- 1.p. *Blasting*— Not applicable for the proposed action.
- 1.q. *Power transmission projects*—Not applicable for the proposed action.
- 1.r. *Timing of construction*—The BLM shall ensure that when possible, the project proponent schedules and conducts construction, operation, and maintenance activities within desert tortoise habitat during the less-active season (generally October 31 to March 1) and during periods of reduced desert tortoise activity (typically when ambient temperatures are less than 60 or greater than 95 °F).

All vehicles and equipment that are not in areas enclosed by desert tortoise exclusion fencing will stop activities in desert tortoise habitat during rainfall events in the more-active season (generally March 1 to October 31), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days. The Field Contact Representative (FCR) or designee will determine, in coordination with the BLM and Service, when it is appropriate for project activities to continue.

RPM 2: **Predator Control— Applies to all actions.** *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to minimize injury to desert tortoises as a result of predators drawn to the project area from construction, operation, and minor maintenance activities:*

Terms and Conditions:

- 2.a. *Litter control, applies to all projects*—A litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit foxes, coyotes, and common ravens. Trash and food items will be disposed of properly in predator-proof containers with predator-proof lids. Trash containers will be emptied and construction waste will be removed daily from the project area and disposed of in an approved landfill. Vehicles hauling trash to the landfill or transfer facility must be secured to prevent litter from blowing out along the road.
- 2.c. *Monitoring and predator control*— Projects that may create nest sites for ravens: Not applicable for the proposed action.
- 2.d. *Evaporation ponds and open water sources*—Not applicable for the proposed action.

RPM 3: **Impacts to Desert Tortoise Habitat**—Applies towards all actions that involve habitat impacts. BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to minimize loss and long-term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, crushed vegetation, and introduction of weeds or contaminants from construction, operation, and minor maintenance activities:

Terms and Conditions:

- 3.a. *Habitat protection plans*—The applicant shall have an approved fire prevention and response plan, erosion control plan, and a weed management plan as required prior to surface disturbance.
- 3.b. *Restoration plan*—Not required.
- 3.c. *Minimizing new disturbance*—Cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and construction materials shall be restricted to the designated areas and new disturbance will be restricted to the minimum necessary to complete the task (e.g., such as construction of one-lane access roads with passing turnouts every mile rather than a wider two-lane road).

All work area boundaries shall be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities.
- 3.d. *Weed prevention*—Vehicles and equipment shall be cleaned with a high pressure washer prior to arrival in desert tortoise habitat and prior to departure from areas of known invasive weed and nonnative grass infestations to prevent or at least minimize the introduction or spread these species.
- 3.e. *Chemical spills*—Hazardous and toxic materials such as fuels, solvents, lubricants, and acids used during construction will be controlled to prevent accidental spills. Any leak or accidental release of hazardous and toxic materials will be stopped immediately and cleaned up at the time of occurrence. Contaminated soils will be removed and disposed at an approved landfill site.
- 3.f. *Residual impacts from disturbance*— As proposed, this project will disturb 0.32 acres of desert tortoise habitat; therefore, remuneration fees are required as described below. BLM shall collect remuneration fees to offset residual impacts to desert tortoises from project-related disturbance to desert tortoise habitat. Remuneration fees will be used for management actions expected to promote recovery of the desert tortoise over time, including management and recovery of desert tortoise in Nevada. Actions may involve habitat acquisition, population or habitat enhancement, increasing knowledge of the species' biological requirements, reducing loss of individual animals, documenting the species status and trend, and preserving distinct population

attributes. Fees will be used to fund the highest priority recovery actions for desert tortoises in Nevada

The remuneration fees for this project will be \$267.52. The current base rate is \$836 per acre of disturbance, as indexed for inflation, effective March 1, 2014. The next adjustment will become effective March 1, 2015. The fee rate will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) on January 31st of each year, becoming effective March 1st. Fees assessed or collected for projects covered under this biological opinion will be adjusted based on the current CPI-U for the year they are collected. Information on the CPI-U can be found on the internet at:
<http://stats.bls.gov/news.release/cpi.nr0.htm>.

RMP 7: **Compliance and Reporting—Applies towards all actions.** *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to comply with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion:*

Terms and Conditions:

- 7.a. *Desert tortoise deaths*—The deaths and injuries of desert tortoises shall be investigated as thoroughly as possible to determine the cause. The Service (702/515-5230), BLM wildlife staff (702/515-5000) and appropriate state wildlife agency must be verbally informed immediately and within 5 business days in writing (electronic mail is sufficient). The Authorized Desert Tortoise Biologist shall complete the Desert Tortoise Handling and Take Report (Appendix E).
- 7.b. *Non-compliance*—Any incident occurring during project activities that was considered by the FCR, authorized desert tortoise biologist, or biological monitor to be in non-compliance with this biological opinion shall be immediately documented by an authorized desert tortoise biologist. Documentation shall include photos, GPS coordinates, and details on the circumstances of the event. The incident will be included in the annual report and post-project report.
- 7.c. *Fence inspection*—Fencing is not required for this project.
- 7.d. *Project reporting requirements*—Project proponents will provide BLM with compliance reports. Quarter (non-appended actions), annual, and comprehensive final project reports will be submitted to BLM and the Service's Nevada Fish and Wildlife Office in Las Vegas. Annual reports are required for all appended actions (except those completed and provided in a prior annual report). Annual reports will cover the calendar year and are due April 1st of the following year (e.g., the annual report for calendar year 2014 is due April 1, 2015). Quarterly reports for non-appended actions are due 15 calendar days following the quarter. Final project reports are due within 60 days following completion of the project or each phase of the project.

The Programmatic Biological Opinion Report to the Fish and Wildlife Service (Appendix G) will be used for quarterly, annual, and final project reports, and shall include all Desert Tortoise Handling and Take Reports (Appendix E). If available, GIS shape files will be included.

- 7.e. *Operation and maintenance*—A written assessment report shall be submitted annually to the Service outlining the operation and maintenance activities that occurred over the past year.

Report to include: It will include frequency of implementation of minimization measures, biological observations, general success of each of the minimization measures. All deaths, injuries, and illnesses of endangered or threatened species within the project area, whether associated with project activities or not, will be summarized in the annual report. The report is due April 1 of each year.

- 7.f. *Restoration monitoring*—Not required for this project.

8: Minimization Measures

- 8.a. *The project applicant shall notify BLM wildlife staff at 702-515-5000 at least 10 days before initiation of the project.* Notification shall occur before any maintenance activities begin that will damage or remove vegetation, such as off-road vehicle travel for surveys, soil testing, and clearing vegetation off the project site. The purpose of the notification is to ensure that the proper education program is given and to review expectations for compliance with the terms and conditions of the biological opinion.
- 8.b. Overnight parking and storage of equipment and materials, including stockpiling, shall be in previously disturbed areas or areas cleared by a tortoise biologist. If not possible, areas for overnight parking and storage of equipment shall be designated by the tortoise biologist in coordination with BLM and project proponent, which will minimize habitat disturbance.
- 8.c. Within desert tortoise habitat, any construction pipe, culvert, or similar structure with a diameter greater than 3 inches stored less than 8 inches above the ground will be inspected for tortoises before the material is moved, buried, or capped.
- 8.d. **Trenches:** All trenches and holes will be covered, fenced or backfilled to ensure desert tortoises do not become trapped unless alternate measures are in place as agreed by BLM and the Service. If trenches or holes are to remain open during construction, they will be checked for tortoises at least four times a day, at the start of day, at mid-morning, early afternoon, and at the end of the work day. The trenches or holes will also be checked immediately before backfilling regardless of the season. Any tortoise that is found in a trench or excavation shall be promptly removed by an authorized desert tortoise biologist in accordance with the most current Service-approved guidance. If the authorized desert tortoise biologist is not allowed to enter the trench for safety reasons, the alternative method of removal must have prior approval by the Service.
- 8.e. Ravens and other avian tortoise predators: Not applicable for the proposed action.
- 8.f. **Vehicles:** All project/event-related individuals shall check underneath stationary vehicles before moving them. Tortoises often take cover under vehicles. All vehicle use will be restricted to existing roads. New access roads will be created only when absolutely necessary and only when approved by BLM. Workers shall not drive or park vehicles where catalytic converters can ignite dry vegetation and to exhibit care when smoking in natural areas. Fire protective mats or shields shall be used during grinding or welding.

Vehicles will comply with the posted speed limit. A Speed limit of 25 MPH shall be required on unposted county road and unpaved road and trails used to access the project site.

On-site personnel shall carpool to the greatest extent possible.

Minimization Measures to Minimize Threat of Nonnative Plants

- 8.g. Rehabilitate, reclaim, or revegetate areas subjected to surface-disturbing activities where feasible. Habitat will be reclaimed so that pre-disturbance conditions can be reached within a reasonable time frame. Reclamation may include salvage and transplant of cacti and yucca, recontouring the area, scarification of compacted soil, soil amendments, seeding, vertical mulch, and transplant of seedling shrubs. If necessary subsequent seeding or transplanting efforts may be required, should monitoring indicate that the original effort was not successful.

APPENDIX E. DESERT TORTOISE HANDLING AND TAKE REPORT

If a desert tortoise is killed or injured, immediately contact the U.S. Fish and Wildlife Service and BLM, by phone at the numbers below and complete Section 1 of the form.

Completed forms should be submitted to the BLM and Fish and Wildlife Service:

Bureau of Land Management
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5000

U.S. Fish and Wildlife Service
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5230

Project Name: ROW for Drainage and Related Facilities on Public Land NEPA No.: DOI-BLM-NV-S010-2014-0123-CX Case File No.: N-93183 BLM Section 7 log no.: NV-052-14-201	Report Date:
Fish and Wildlife Service Append File No.- n/a	
Authorized Desert Tortoise Biologist: _____ Employed by: _____	
Section 1: Complete all information below if a desert tortoise is injured or killed in addition to initial contact described above.	
If tortoise was injured ☐ or killed ☐ (check appropriate box):	
Date and time found: _____ Found by: _____ GPS location (NAD 83): easting: _____ northing: _____ No. of photos taken: _____ Disposition: _____ _____ _____	
Attach report with photos that describe in detail, the circumstances and potential cause of injury or mortality. For injuries include name of veterinarian and detailed assessment of injuries.	

AUG 10 2015

Section 2: Complete all information below for each desert tortoise handled.

All instances of desert tortoise handling must be reported in this section and be included in the quarterly, annual, and final project reports.

Desert tortoise number: _____

Date and time found: _____ Sex of tortoise: _____

Air temperature when found: _____ Air temperature when released: _____

Tortoise activity when found: _____

Handled by: _____ Approx. carapace length _____

GPS location (NAD 83) found: easting: _____ northing: _____

GPS location released: easting: _____ northing: _____

Approximate distance moved: _____

Did tortoise void bladder; if so state approximate volume and actions taken:

Post handling or movement monitoring and observations:

Section 3: Complete for each tortoise burrow penned.

All instances of desert tortoise penning must be reported in this section and be included in the quarterly, annual, and final project reports.

Date and time of pen construction:

Began: _____ Completed: _____

Date and time pen removed: _____

Pen constructed by: _____

Why was tortoise penned? _____

How frequently was pen monitored? _____

Observations of desert tortoise behavior including time and date of observation:

Include photos of pen and burrow with report.

AUG 10 2015

APPENDIX F. SECTION 7 FEE PAYMENT FORM

SECTION 7 LAND DISTURBANCE FEE PAYMENT FORM

Biological Opinion File Number: 84320-2010-F-0365.R002
 Biological Opinion Issued By: Nevada Fish and Wildlife Office, Las Vegas, Nevada
 Species: Mojave Desert Tortoise (*Gopherus agassizii*)
 Project Name: ROW for Drainage and Related Facilities on Public Land
 NEPA #: DOI-BLM-NV-S010-2014-0123-CX
 Case File/Serial #: N-93183
 BLM Sec 7 log #: NV-052-14-201
 Project Proponent:
 Comment:

Payment Calculations:	Clark County		County		County	
	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat
# acres anticipated to be disturbed on federal land	0	0.32				
Fee rate (per acre)		\$836				
Total cost/habitat type (per county)	\$ -	\$267.52	\$ -	\$ -	\$ -	\$ -
Total cost per county	\$267.52		\$ -		\$ -	

Total payment required (all counties): \$ 267.52

Amount paid: Date: Check/Money Order #:

Authorizing agencies: Bureau of Land Management, Las Vegas, Nevada

Make check payable to: Bureau of Land Management

Deliver check to: Physical Address
 Bureau of Land Management
 Attn: Information Access Ctr
 1340 Financial Blvd.
 Reno, NV 89502

Credit Card Payments: Contact BLM State Office Public room at 775-861-6500
 For BLM Public Room

Process check to:

Contributed Funds-All Other

WBS: LVTFFX000800

7122 FLPMA

All other Res. Dev. Project and Management

Remarks: LLNV934000 L71220000.JP0000 LVTFFX000800 Desert
 Tortoise Conservation Program

Please provide a copy of this completed
 payment form and the payment receipt to NV-
 930, Attn: T&E Program Lead

**T&E Program Lead will provide a copy to
 the appropriate District Office(s)

APPENDIX G. PROGRAMMATIC BIOLOGICAL OPINION (FILE NO. 84320-2010-F-0365) REPORT TO THE FISH AND WILDLIFE SERVICE

The information below should be completed by BLM or the Authorized Desert Tortoise Biologist for the project/action. Reports for all appended actions are required annually (due March 1 of each year for prior calendar year activities) and upon completion of the project/action.

Project Name: ROW for Drainage and Related Facilities on Public Land

NEPA no.: DOI-BLM-NV-S010-2014-0123-CX

Case File no./SRP no.: N-93183

BLM Section 7 log no.: NV-052-14-201

☐ Annual Report

☐ Project Completion Report

1. Date: _____

2. Fish and Wildlife Service File No (for appended actions): _____ n/a

3. Species and critical habitat affected:

☐ Desert tortoise

☐ Desert tortoise critical habitat

Other (identify): _____

4. Project/action status:

☐ Not begun

☐ In progress*

☐ Completed

date _____

If in progress, state approximate percent complete: _____

5. Desert tortoise habitat disturbed:

Non-critical habitat		Critical habitat	
Proposed disturbance (ac)	Actual disturbance (ac)	Proposed disturbance (ac)	Actual disturbance (ac)
0.32		0	

6. Habitat of other species disturbed (identify species, non-critical, and critical habitat affected below):

7. Summary of individual desert tortoises taken (appended action):

	Desert Tortoise:		
	Adults	Juveniles	Eggs
Exempted			
Actual			

Describe other individuals taken:

8. Name of authorized desert tortoise biologists and monitors on the project and the dates they were on the project.

9. Describe all non-compliance issues and events.

10. Desert tortoise burrow observed during activity/event:

Total number desert tortoises observed: _____

Total number desert tortoise burrows observed: _____

Attach a summary report detailing each desert tortoise and/or desert tortoise burrows observed during activity/event including tortoise activity when found, how the animal was avoided, what happened to the tortoise, the date and time encountered and GPS location (NAD 83 easting: _____ northing: _____)

11. Contact Information

Name _____ Company _____

Address _____

Phone _____

Signature _____ Date _____

Send completed form to:

Bureau of Land Management

Attn: Wildlife Staff

4701 North Torrey Pines Drive

Las Vegas, Nevada 89130

702-515-5000

U.S. Fish and Wildlife Service

4701 North Torrey Pines Drive

Las Vegas, Nevada 89130

702-515-5230

AUG 10 2015

WALLACE • MORRIS SURVEYING, INC.
Land Survey Consulting

APN# 125-01-701-001

EXHIBIT "A"

EXPLANATION: THIS DESCRIPTION REPRESENTS A BLM RIGHT-OF-WAY GRANT FOR A DRAINAGE EASEMENT IN SUPPORT OF THE "GRANITE FALLS" PROJECT.

DESCRIPTION

THAT PORTION OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 1, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION 1;

THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 1, NORTH 87°46'13" EAST, 430.51 FEET;

THENCE DEPARTING THE SOUTHERLY LINE OF SAID SECTION 1, NORTH 02°13'47" WEST, 70.32 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 04°14'45" WEST, 20.06 FEET;

THENCE NORTH 81°15'16" EAST, 1029.16 FEET;

THENCE SOUTH 09°26'32" EAST, 20.00 FEET;

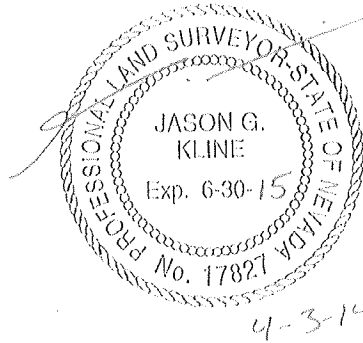
THENCE SOUTH 81°15'16" WEST, 1030.97 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 20,600 SQUARE FEET, MORE OR LESS.

BASIS OF BEARINGS

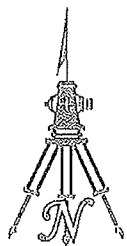
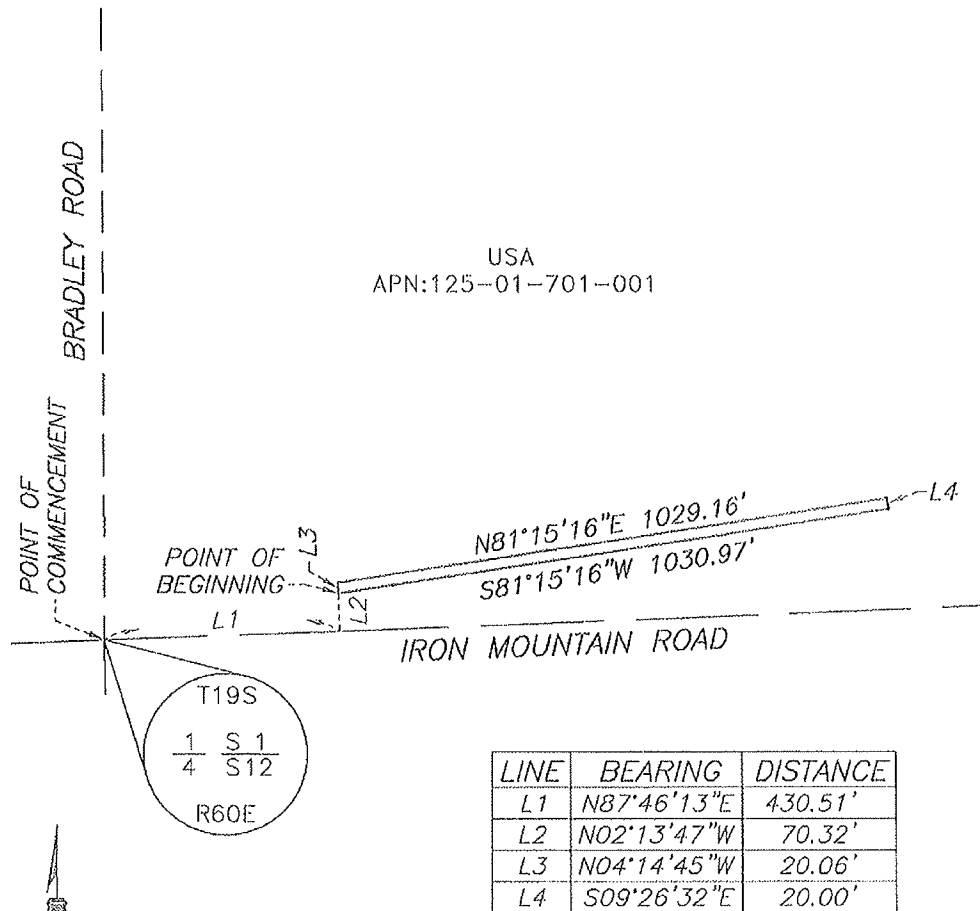
SOUTH 00°23'54" EAST, BEING THE BEARING OF THE EAST LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 1, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN BY MAP THEREOF IN FILE 117, PAGE 43 OF PARCEL MAPS IN THE CLARK COUNTY RECORDER'S OFFICE, NEVADA.

JASON G. KLINE, PLS
NEVADA LICENSE NO. 17827



APN: 125--01--701--001

BLM RIGHT-OF-WAY GRANT FOR A DRAINAGE EASEMENT



1" = 300'

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SURVEYING, INC.
LAND SURVEY CONSULTING

5740 S. ARVILLE ST. #206
LAS VEGAS, NEVADA 89118

EXHIBIT "B"

LYING WITHIN THE SOUTHEAST QUARTER (SE1/4)
OF SECTION 1, T. 19 S., R. 60 E., M.D.M.,
CITY OF LAS VEGAS, CLARK COUNTY, NEVADA

PAGE 1 OF 1

WALLACE • MORRIS SURVEYING, INC.
Land Survey Consulting

APN# 125-01-701-001

EXHIBIT "A"

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DESCRIPTION

THAT PORTION OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 1, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION 1;

THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 1, NORTH 87°46'13" EAST, 51.94 FEET;

THENCE DEPARTING THE SOUTHERLY LINE OF SAID SECTION 1, NORTH 02°13'47" WEST, 9.90 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUING NORTH 02°13'47" WEST, 30.10 FEET;

THENCE FROM A POINT TO WHICH A RADIAL LINE BEARS SOUTH 02°13'47" EAST, CURVING TO THE RIGHT ALONG AN ARC HAVING A RADIUS OF 20.00 FEET, CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 53°59'23", AN ARC LENGTH OF 18.85 FEET TO A POINT TO WHICH A RADIAL LINE BEARS SOUTH 51°45'36" WEST;

THENCE NORTH 85°45'15" EAST, 36.47 FEET;

THENCE NORTH 81°15'16" EAST, 359.92 FEET;

THENCE SOUTH 04°14'45" EAST, 48.24 FEET;

THENCE SOUTH 85°45'15" WEST, 172.78 FEET;

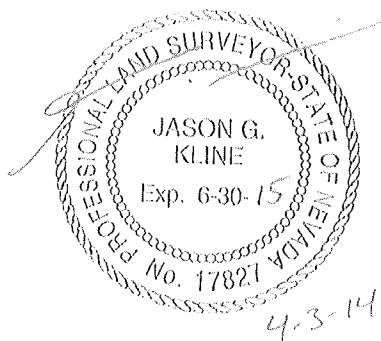
THENCE SOUTH 80°33'28" WEST, 208.53 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 14,709 SQUARE FEET, MORE OR LESS.

BASIS OF BEARINGS

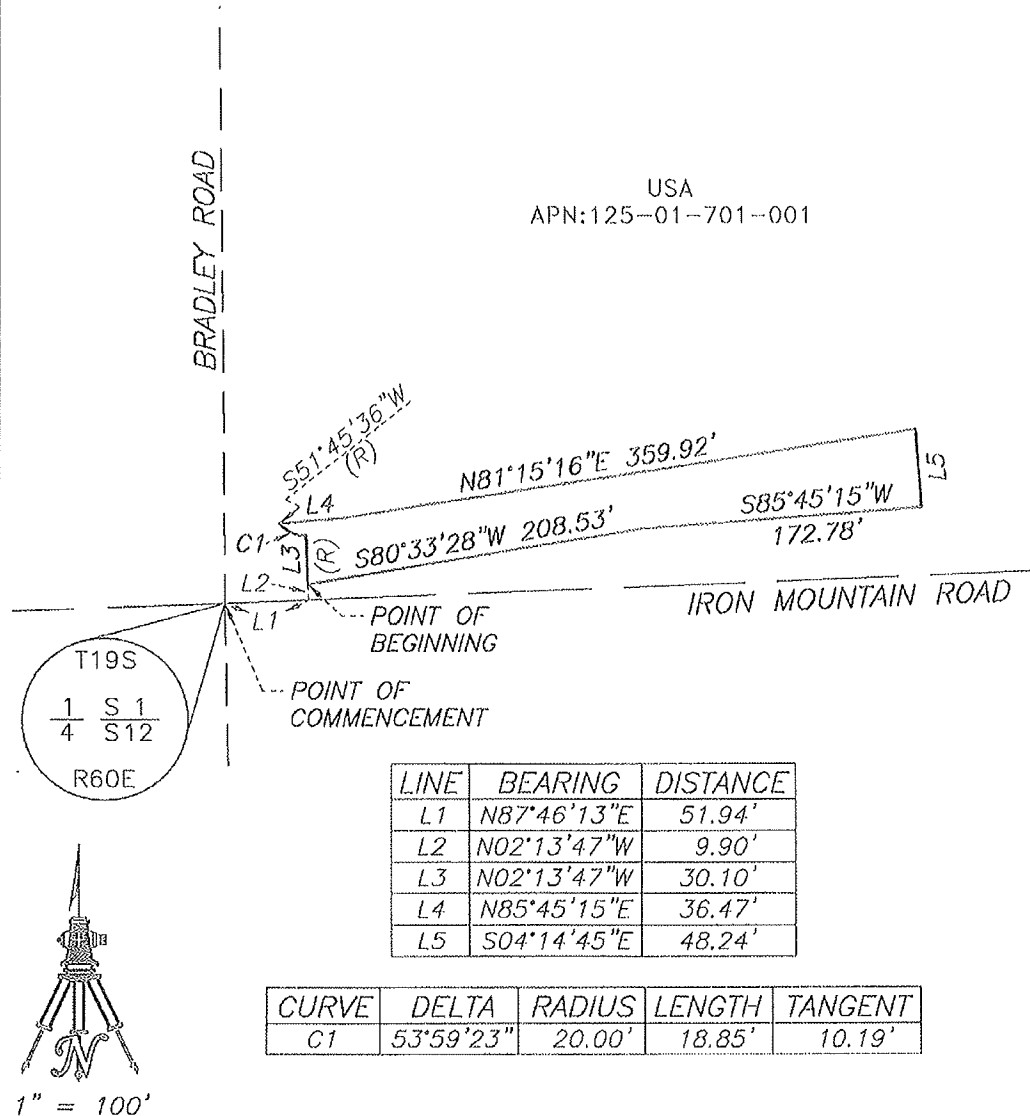
SOUTH 00°23'54" EAST, BEING THE BEARING OF THE EAST LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 1, TOWNSHIP 19 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN BY MAP THEREOF IN FILE 117, PAGE 43 OF PARCEL MAPS IN THE CLARK COUNTY RECORDER'S OFFICE, NEVADA.

JASON G. KLINE, PLS
NEVADA LICENSE NO. 17827



APN: 125-01-701-001

BLM RIGHT-OF-WAY GRANT FOR A DRAINAGE EASEMENT



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LAND SURVEY CONSULTING

5740 S. ARVILLE ST. #206
LAS VEGAS, NEVADA 89118

EXHIBIT "B"

LYING WITHIN THE SOUTHEAST QUARTER (SE1/4)
OF SECTION 1, T. 19 S., R. 60 E., M.D.M.,
CITY OF LAS VEGAS, CLARK COUNTY, NEVADA

PAGE 1 OF 1