

GRANTOR: Jennifer M. Freeman

Project Name: Hirschdale Road at Truckee River Bridge Replacement Project

APN: 48-100-07

COUNTY OF NEVADA

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into this ___ day of _____, 2023, by and between the COUNTY OF NEVADA, a Political Subdivision of the State of California (hereinafter referred to as COUNTY) and Jennifer M. Freeman, an unmarried woman, (hereinafter referred to as GRANTOR). This Agreement is made with reference to the following facts:

WHEREAS, COUNTY desires to purchase and GRANTOR is willing to convey to COUNTY for the price and under the terms and conditions specified herein, a temporary construction easement interest to a portion of real property described in Exhibit A to Nevada County Assessor Parcel Number 48-100-07 (Parcel No. 1), as described in the Temporary Construction Easement, attached as Attachment "A" and incorporated herein by this reference ("Property"); and;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

In consideration of the terms and conditions set forth in this Agreement, GRANTOR shall execute and deliver a Temporary Construction Easement suitable for conveying from GRANTOR to COUNTY easement interests to the Property, in the form set forth in Attachment "A".

1. Entire Contract

The parties have herein set forth the whole of their agreement. The performance of this Agreement constitutes the entire consideration for the Temporary Easement.

2. COUNTY shall

- A. Pay the sum of \$100,000.00 (One Hundred Thousand Dollars and NO/100) for the Temporary Construction Easement, and any improvements thereon, to the GRANTOR, conditioned upon the Property vesting in COUNTY free and clear of all liens, leases, encumbrances (recorded or unrecorded), assessments and taxes. Clearing of any title exceptions not acceptable to COUNTY is the responsibility of GRANTOR.
- B. Be responsible for all covenants conditions, restrictions and reservations of record, or contained in the above- referenced document.
- C. Be responsible for all easements or rights of way over said land for public or quasi-public utility or public street purposes, if any.
- D. Pay all escrow, recording and title insurance charges, if any, incurred in this transaction.
- E. Restore the Temporary Construction Easement area upon completion of the bridge to a condition comparable to the preconstruction status including, without limitation, the removal of all roads, parking areas, berms, other improvements constructed by or on behalf of COUNTY, removal of all construction debris, removal of all toxic and hazardous materials introduced onto the Property by COUNTY or its employees, agents(including contractors and subcontractors), rebuilding the fence in its current location, 2-inches of compacted aggregate base spread on the parking area, slope restoration to the preconstruction grade with erosion control, and replanting of (3) 6ft pine trees near the top of the embankment slope.

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3. Escrow Instructions

GRANTOR hereby authorizes COUNTY to file escrow instructions signed by GRANTOR and COUNTY.

4. Hazardous Waste

The GRANTOR is aware of its obligation under California Health and Safety Code Section 25359.7 to disclose information to COUNTY regarding the environmental status of the Property. GRANTOR further agrees as part of the consideration herein that GRANTOR will not, during the term of the Temporary Construction Easement, use, generate, manufacture, store, dump, bury, leak or dispose of any Hazardous Materials within the Temporary Construction Easement. In such event GRANTOR will, release and indemnify COUNTY from any and all liability arising solely from GRANTOR's release of Hazardous Materials in the Temporary Construction Easement Area.

It is acknowledged and agreed that GRANTOR may use and store certain Hazardous Materials, in compliance with all applicable laws, on areas adjacent to the Temporary Construction Easement owned or controlled by GRANTOR.

The COUNTY shall indemnify, defend (with counsel of GRANTOR's choice), and hold GRANTOR harmless from and against, and shall reimburse GRANTOR for any loss, claim, liability, damages, injuries, (to person, property or natural resources), cost, expense, action or cause of action, including all foreseeable, and unforeseeable consequential damages, directly or indirectly arising out of the release, presence, use, generation, storage or disposal of Hazardous Materials at the Property, including without limitation, the cost of any required or necessary repair, clean-up, detoxification, or other compliance with any law, regulation or order with respect to the discharge or removal of such substances and the preparation of any closure or other required plans, whether such action is required or necessary to the Property, all costs associated with claims for damages to persons or property, and GRANTOR's reasonable attorney's and consultants' fees and court costs, to the full extent that the same are attributable, directly or indirectly, to the use, release, generation, storage or disposal of Hazardous Materials on the Property by the COUNTY or any party in possession of the Property under the control or direction of the COUNTY, excluding liability arising from the presence, release or discharge of any Hazardous Materials in, at, about or under the Property caused or permitted by GRANTOR.

For purposes of this Agreement, "Hazardous Materials" shall mean inflammable explosives, radioactive materials, asbestos, polychlorinated biphenyls, lead, lead-based paint, under and/or above ground tanks, hazardous materials, hazardous wastes, hazardous substances, oil, or related materials, which are now or hereafter listed or regulated in any Hazardous Materials Laws. "Hazardous Materials Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), and the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California

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Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.) and any amendments to the foregoing and any similar applicable federal, state or local laws, ordinances, rules, decrees, orders or regulations relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, materials or waste, and the environmental condition of the soil or ground water conditions of the property.

5. Right of Possession and Use

It is agreed and confirmed by the parties hereto that, notwithstanding the other provisions in this Agreement, the right of possession and use of the subject property by COUNTY, and/or its designees or assignees shall commence one day following the deposit of funds into escrow and that the amount shown in Clause 2A herein includes, but is not limited to, full payment for such possession and use, including interest and damages if any, from said date

6. Binding on Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the respective heirs, successors and assigns of the parties to this Agreement.

7. No Leases

GRANTOR warrants that there are no oral or written leases on all or any portion of the property, and GRANTOR further agrees to hold COUNTY harmless and reimburse COUNTY for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of GRANTOR for a period exceeding one month.

8. Release of All Claims

GRANTOR hereby acknowledges and agrees that the receipt and acceptance by GRANTOR for the payment set forth in Clause 2(A) of this Agreement constitutes payment for acquisition of the Temporary Construction Easement only. GRANTOR hereby expressly reserves any and all claims against COUNTY including claims for any damages resulting or arising from or related to (either directly or indirectly) (i) the COUNTY's use or possession of the Temporary Construction Easement; (ii) the COUNTY's breach of this Agreement or the Temporary Construction Easement; (iii) any loss or impairment of or interference with GRANTOR's abutter's rights or access to or from GRANTOR's Property; (iv) any use or possession of GRANTOR's Property that results in an inverse condemnation or other taking of GRANTOR's Property as determined under applicable law; (v) the COUNTY's failure to restore the Property to its original condition (less the vegetation removed);

9. Approval of COUNTY

GRANTOR understands that this Agreement is subject to approval by the County Executive Officer and/or the Board of Supervisors of the County of Nevada, and this Agreement shall have no force or effect unless and until such approval has been obtained.

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10. Warranties

- A. GRANTOR and the signatories represent and warrant that the signatories to this Agreement are authorized to enter into this Agreement to convey a temporary construction easement over real property in lieu of condemnation and that no other authorizations are required to implement this Agreement on behalf of GRANTOR.
- B. GRANTOR represents that they will have at time of escrow the power to sell, transfer and convey a temporary construction easement to COUNTY save and except for COUNTY approved exceptions. GRANTOR further represents that to the best of its current knowledge, the Property is not subject to any litigation proceedings, or investigation and contains no easements or interests of other parties which, if revealed or known, might materially affect the obligations or intentions of either party with respect to the objects of this Agreement. GRANTOR further represents that there are no contracts, agreements or understandings with other parties concerning the Property that GRANTOR has not disclosed in writing to COUNTY.
- C. GRANTOR shall not attempt to resell the Property to any other person or entity prior to the close of escrow that GRANTOR has entered into with the COUNTY.
- D. The parties warrant that they are not represented by any real estate agents or brokers in this transaction, and that there are no commissions due as a result of its completion.

11. Notices

All notices pertaining to this Agreement shall be in writing delivered to the parties hereto by facsimile transmission, personally by hand, by courier service or express mail, or by first-class mail postage prepaid, to the addresses set forth below. All notices shall be deemed given or delivered (a) if sent by mail, when deposited in the mail, first-class postage prepaid, addressed to the party to be notified, (b) if delivered by hand, courier service or express mail, when delivered, or (c) if transmitted by facsimile, when transmitted. The parties may, by notice as provided above, designate a different address to which notice shall be given.

TO GRANTOR:

Name: Jennifer M. Freeman
 Address: 10793 Hirschdale Road
 Truckee, CA 96161

TO COUNTY:

Name: County of Nevada
 Director of Public Works
 Address: 950 Maidu Avenue
 Nevada City, CA 95959

12. Entire Agreement

This Agreement and the Temporary Construction Easement constitutes the Entire Agreement between GRANTOR and the COUNTY pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

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13. Time of the Essence

Time is of the essence in this Agreement. In the event that any date specified in this Agreement falls on a Saturday, Sunday or public holiday, such date shall be deemed to be the succeeding day on which the public agency and major banks are open for business.

14. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. Venue

An action at equity or law arising out of the subject matter of this Agreement shall be filed and tried in the County of Nevada, State of California.

16. Headings

The captions to the paragraphs of this Agreement are inserted for convenience only and shall not affect the intent of this Agreement.

17. Language Construction

The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

18. Exercise of Discretion

Where the terms of this Agreement require approval or the exercise of discretion by GRANTOR or by the COUNTY, discretion shall not be exercised in an unreasonable, arbitrary, or capricious manner.

19. Specific Performance

In the event of a breach of this Agreement by GRANTOR, COUNTY shall be entitled to pursue any and all remedies available to it against GRANTOR, including, without limitation, claims for all damages attributable to GRANTOR'S breach, and specific performance of this Agreement.

20. Title VI

The parties to this contract shall, pursuant to Section 21.7(a) of Title 49, Code of Federal Regulations, comply with all elements of Title VI of the Civil Rights Act of 1964. This requirement under Title VI and the Code of Federal Regulations is to complete the USDOT-Non-Discrimination Assurance requiring compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R Section 50.3.

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No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that is the subject of this contract.

21. Insurance

COUNTY consultants, contractors, and subcontractors, permitted onto the temporary construction easement on behalf of COUNTY, shall obtain and maintain the following insurance, which shall be primary and non-contributory, and which shall name the GRANTOR as an additional insured:

(a) Commercial General Liability Insurance. Commercial general liability insurance with combined single-limit coverage of not less than One Million Dollars (\$2,000,000) for any one occurrence (covering personal injury, bodily injury, liability, death and property damage) and not less than One Million Dollars (\$2,000,000) in the aggregate for any one policy year.

(b) Certificates of Insurance. Certificates of insurance or endorsements, naming the GRANTOR as an additional insured on all policies except workers' compensation, shall be provided to the GRANTOR prior to the County permitting anyone onto the Property. Copies of the policies shall be provided upon request by the GRANTOR.

SIGNATURE PAGE FOLLOWS

GRANTOR: Jennifer M. Freeman

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set above.

GRANTOR: Jennifer M. Freeman, an unmarried woman

BY (SIGNATURE): _____

(PRINT NAME): Jennifer M. Freeman

TITLE: _____

DATE: _____

COUNTY OF NEVADA, a Political Subdivision of the State of California

BY (SIGNATURE): _____

(PRINT NAME): _____

TITLE: _____

DATE: _____

APPROVED AS TO FORM:
Office of the County Counsel

By: _____
Rhetta VanderPloeg
Deputy County Counsel

Date: _____

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Attachment "A"
Temporary Construction Easement w/attachments

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REQUESTED BY:

County of Nevada

R&T 11922: Government agency acquiring title

APN: 48-100-07 (Parcel No. 1)

Space above this line for Recorder's Use

TEMPORARY CONSTRUCTION EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Jennifer M. Freeman, an unmarried woman, ("GRANTOR"), hereby grants to County of Nevada, Political Subdivision of the State of California, a 5-year Temporary Construction Easement ("TCE") over the real property located in Truckee, County of Nevada, State of California, described as (the "Property"):

SEE EXHIBIT "A", LEGAL DESCRIPTION, AND EXHIBIT "B", PLAT MAP ATTACHED HERETO AND MADE APART HEREOF.

This TCE shall be for the purpose of construction activities related to the Hirschdale Road at Truckee River Bridge Replacement Project including, but not limited to a detour road and temporary bridge use, ingress and egress, road construction areas, parking of vehicles and all other activities whatsoever in nature incidental to the construction of the specified project. This TCE and its related purposes shall not in any way unreasonably impair GRANTOR'S use, access and ingress/egress of GRANTOR'S residence situated within the remainder property currently owned by GRANTOR.

COUNTY shall permit no mechanic's, materialman's or other lien against the Property in connection with any materials, labor or equipment furnished, or claimed to have been furnished, to or for COUNTY or any person claiming under COUNTY, or in connection with any utilities used or consumed by COUNTY or any person claiming under COUNTY. If any such lien shall be filed against the Property, COUNTY shall cause the same to be discharged of record within 30 days after written request by GRANTOR.

COUNTY shall save GRANTOR AND GRANTOR'S successor, assigns and invitees harmless from and indemnify (including payment or reasonable costs and attorneys' fees) GRANTOR against any and all injury, loss or damage, or claims for injury, loss or damage, of whatever nature, to any person or property caused by or resulting from: (a) any breach of any covenant by COUNTY of this TCE or that certain TCE Agreement dated this __ day of _____, 2023 entered into between the COUNTY and GRANTOR; or (b) any act, omission or negligence of COUNTY or any employee or agent of COUNTY (including all contractor and subcontractor performing work on or related to the Property).

This TCE shall become effective May 30, 2023, and shall terminate upon GRANTOR receiving written notification of the completion of construction of that portion of the project lying adjacent to the above described parcel; or May 30, 2028, whichever occurs first.

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IN WITNESS WHEREOF, the undersigned Grantors have executed this Temporary Construction Easement Deed as of this _____ day of _____, 2023.

GRANTOR(s): Jennifer M. Freeman, an unmarried woman

By: _____
Signature

Date: _____

Its: _____

Name/Title: Jennifer M. Freeman

GRANTOR: Jennifer M. Freeman

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ATTACH LEGAL DESCRIPTION

Exhibit "A"

EXHIBIT "A"

Temporary Construction Easement

Legal Description:

All that portion of the north one half of Section 34, T. 18 N., R. 17 E., M. D. B. & M., County of Nevada, State of California, described as PARCEL 1, as granted to JENNIFER M. FREEMAN by GRANT DEED Recorded March 17, 2015 as Document No. 20150005382 in the office of the Recorder of said County and being more particularly described by metes and bounds as follows.

Beginning at the southeast corner of said PARCEL 1, being on the northerly right of way line of Hirschdale Road (80.00 feet in width) and being the True Point of Beginning; Thence from said True Point of Beginning N69°01'28"W 80.00' along said northerly right of way line to the beginning of a tangent curve concave northeasterly having a radius of 260.00'; Thence northwesterly continuing along said northerly right of way line along the arc of said tangent curve a distance of 126.37' through a central angle of 27°50'52"; Thence departing from said northerly right of way line N84°39'58"E 101.28'; Thence S69°01'28"E 103.68' to a point on the arc of a non-tangent curve concave westerly having a radius of 390.46'; Thence southwesterly along the arc of said non-tangent curve, from a tangent which bears S10°07'23"W, a distance of 75.44' through a central angle of 11°04'13" to the True Point of Beginning.

Containing 11712 square feet, more or less.

All as shown on EXHIBIT "B" attached hereto and by this reference made a part hereof.

Bearings used herein are based on The California Coordinate System of 1983, Zone 2, (Epoch 2011). All distances are ground distances.

Prepared by me or under my direction.


TERRY FLETCHER LS 5834

11/29/2016
DATE



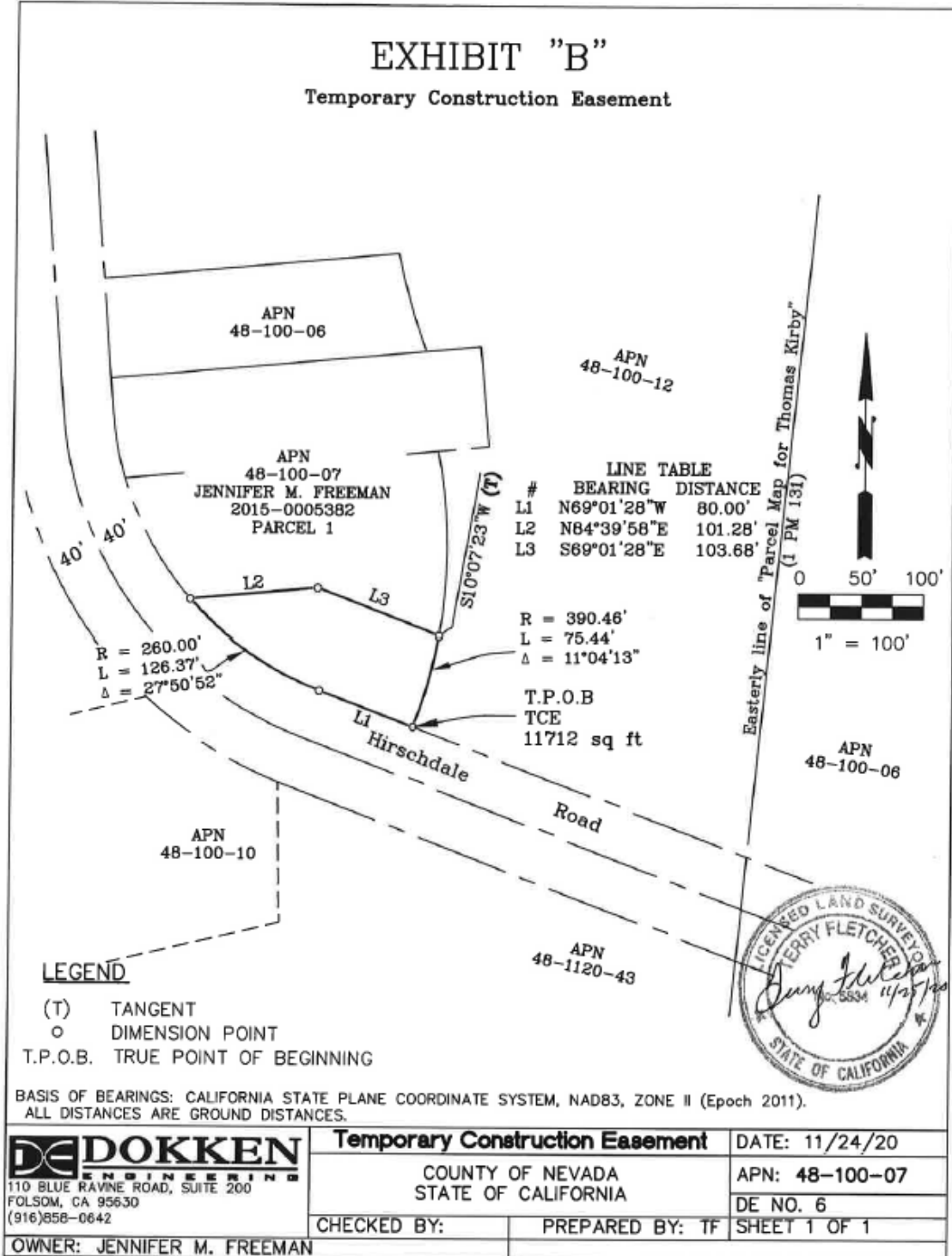
GRANTOR: Jennifer M. Freeman

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ATTACH PLAT MAP

Exhibit "B"



GRANTOR: Jennifer M. Freeman

Project Name: Hirschdale Road at Truckee River Bridge Replacement Project

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CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed to the County of Nevada, a municipal corporation, by the within instrument, the provisions of which are incorporated by this reference as though fully set forth in this Certification, is hereby accepted by the undersigned officer(s) on behalf of the County pursuant to authority conferred by the Board of Supervisors Resolution No. _____ adopted on _____, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated _____ By _____