



RESOLUTION No. 16-191

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION AUTHORIZING THE CONVEYANCE AND RECORDATION OF A NON-EXCLUSIVE EASEMENT WITHIN WESTERN GATEWAY PARK PROPERTY (APN 51-220-16), APPROVING AN EASEMENT AGREEMENT BETWEEN THE COUNTY OF NEVADA AND THE NEVADA CEMETERY DISTRICT AND AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE AGREEMENT

WHEREAS, County of Nevada (County) owns approximately 80.97 acres (APN 51-220-16) and its appurtenant facilities located at 18560 Penn Valley Drive, Penn Valley, CA, commonly known as the Western Gateway Park (Park Property); and

WHEREAS, County acquired the Park Property from Boise Cascade Recreation Communities, a Division of Boise Cascade Home and Land Corporation, on March 6, 1972, when it was deeded to the County for use as a County park and open space; and

WHEREAS, County intends to transfer Park Property to the Western Gateway Park District; and

WHEREAS, the Nevada Cemetery District owns property adjacent to the Park Property, and more particularly described as APN 51-120-13 and APN 51-120-09, and desires to acquire an easement for ingress and egress and utility purposes across 0.89 acres of Park Property; and

WHEREAS, prior to transferring the Park Property to the Western Gateway Park District, County desires to grant a non-exclusive easement (Park Property Easement) to the Cemetery District for ingress and egress and utility purposes across 0.89 acres of the Park Property as described in the Easement Agreement (Easement Agreement) attached as Exhibit A; and

WHEREAS, County now desires to grant the Park Property Easement and Cemetery District agrees to accept the Park Property Easement subject to conditions set forth in the Easement Agreement attached as Exhibit A; and

WHEREAS, Government Code section 25365 provides that the Board of Supervisors may, by a four-fifths vote, convey or otherwise transfer to a special district any real property or any interest therein belonging to the County if the property interest to be conveyed is not required for county use; and

WHEREAS, pursuant to Government Code section 25365(c), notice of the proposed conveyance of a non-exclusive easement to the Nevada Cemetery District was duly published in a newspaper of general circulation in the County on May 2, 2016.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors, of the County of Nevada, State of California, that:

1. The Board of Supervisors hereby finds and determines that the non-exclusive easement to be conveyed to the Nevada Cemetery District is not required for County use.
2. The Easement Agreement by and between the County of Nevada and the Nevada Cemetery District for a non-exclusive easement for ingress and egress and utility purposes in 0.89 acres of Park Property located at 18560 Penn Valley Drive, Penn Valley, CA, APN 51-220-16, is hereby approved in the form attached hereto as Exhibit A, and the Chair of the Board of Supervisors is hereby authorized to execute the Easement Agreement, on behalf of the County of Nevada.
3. Mr. Stephen T. Monaghan, Chief Information Officer, is hereby authorized to execute and record, on behalf of the County of Nevada, all such instruments and documents as may be required in order to consummate this real property transaction.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 10th day of May, 2016, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By:  _____

 _____
Dan Miller, Chair

5/10/2016 cc: Facilities*
AC*(hold)

6/1/2016 cc: Facilities.*
NCD
AC*(release)

5/31/2016 cc: Facilities(4)
AC*(hold)

COPY

RECORDING REQUESTED BY
County of Nevada

Nevada County Recorder
Gregory J. Diaz
Document#: 20160011460
Wednesday June 01 2016, at 04:00:00 PM

AND MAIL TO
Nevada Cemetery District
P.O. Box 2400
Nevada City, CA 95959

Paid: AB

_____ [Space Above This Line For Recording Data] _____

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE GOVERNMENT CODE

THIS DOCUMENT IS EXEMPT FROM DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE REVENUE AND TAXATION CODE

ASSESSOR'S PARCEL No.: 51-220-16

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and is effective as of May 10, 2016, by and between the County of Nevada, a political subdivision of the State of California (hereafter "County" or "Grantor") and the Nevada Cemetery District, a special district (hereafter "Cemetery District" or "Grantee").

This Agreement is made with reference to the following facts and circumstances, among others:

- A. County owns approximately 80.97 acres (APN 51-220-16) and its appurtenant facilities located at 18560 Penn Valley Drive, Penn Valley, CA, commonly known as the Western Gateway Park ("Park Property.")
- B. Nevada Cemetery District owns property adjacent to the Park Property, and more particularly described as APN 51-120-13 and APN 51-120-09, and desires to acquire an easement for ingress and egress and utility purposes across **0.89 acres** of Park Property.
- C. County desires to grant a non-exclusive easement ("Park Property Easement") to the Cemetery District for ingress and egress and utility purposes across **0.89 acres** of the Park Property as described in **Attachment A** and shown in **Attachment B**, and more particularly described as:

As Easement over and across all that real property situated within Section 33, Township 16 North, Range 7 East, M.D.B.&M., within the unincorporated territory of the County of Nevada and being a portion of that certain property to the County of Nevada as described in deed document recorded March 6, 1972 in Volume 91 at Page 689, Official Records of Nevada County and as shown on that certain Record of Survey Map recorded in 1972 (no month or day noted on map) in Book

4 of Surveys at Page 199, Nevada County Recorder's Office, and being more particularly described as follows:

Beginning at the southeast corner of said County of Nevada property and parcel as shown on said Record of Survey Map and being a point on the northerly right-of-way line of Penn Valley Drive from which the East Quarter Corner of said Section 33 bears North 00° 50' 00" West, 1,061.43 feet; thence from said Point of Beginning northwesterly along the northerly right-of-way line of Penn Valley Drive, North 76° 14' 00" West, 62.00 feet to the southeast corner of Parcel 4 as shown on that certain Parcel Map recorded December 5, 1973 in Book 6 of Parcel Maps at Page 157; thence leaving the northerly right-of-way of Penn Valley Drive and along the east line of said Parcel 4, North 00° 50' 00" West, 631.81 feet to the centerline of Squirrel Creek; thence easterly along the centerline of Squirrel Creek the following two courses: 1) North 77° 10' 00" East, 46.92 feet and 2) North 72° 00' 00" East, 14.76 feet to a point on the east line of said County of Nevada property and being the east line of said Section 33; thence southerly along the east line of said County of Nevada property and Section 33, South 00° 50' 00" East, 661.54 feet to the Point of Beginning.

The herein described property contains an area of 38,768 square feet (0.89 acres), more or less.

The herein described property affects a portion of APN 51-220-16.

- D. County now desires to grant the Park Property Easement and Cemetery District agrees to accept the Park Property Easement subject to conditions set forth in this Agreement. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

NOW, THEREFORE, in consideration of the promises, conditions, and mutual covenants set forth herein, the parties hereto mutually agree as follows:

Grant of Easement

1. County, hereby grants to Cemetery District, a special district, a non-exclusive easement for ingress and egress and utility purposes across **0.89 acres** of Park Property as described in **Attachment A** and shown in **Attachment B**, subject to the terms and conditions as contained in this Agreement.

Grantor further grants to Cemetery District:

- a. The non-exclusive right to ingress and egress; and
- b. The right to Install utilities to serve adjacent parcels (APN 51-120-13 and APN 51-120-09) so long as said utilities do not interfere

with ingress and egress over and across Grantor's property, by means of roads and lanes thereon, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to Grantor;

- c. The right from time to time to trim and to cut down and clear away any and all trees and brush now or hereafter, as needed, to maintain the private roads or lanes on Grantor's property in good operating condition;

Cemetery District hereby covenants and agrees:

- a. Cemetery District shall maintain the existing gravel road in a passable condition for vehicular access at its cost and expense;
- b. Cemetery District shall promptly repair any damage it shall do to all private roads or lanes on Grantor's property;
- c. Cemetery District shall indemnify Grantor against any loss and damage arising out of the exercise of rights granted hereby;
- d. Cemetery District shall not interfere with rights of others, including, but not limited to, an easement in favor of the owner of APN 51-210-05 as recorded at the Nevada County Recorder's Office in Deed 85-20221.
- e. Cemetery District shall not erect additional barriers, gates or other above-ground impediments to free travel without the written consent of all easement holders and the then current owner of the Park Property;
- f. Cemetery District shall coordinate all work with other easement holders and applicable public utilities.

Covenant to Run With Land

- 2. This Agreement shall be recorded and shall constitute a covenant and obligation running with the land and shall be binding upon all successors in interest to the parties to this agreement, including without limitation future owners, and holders of any interest in such land, or any portion thereof and will automatically and effectively transfer with the land.

Condition of Park Property Easement

- 3. Except as otherwise expressly provided in this Agreement, the Cemetery District is acquiring the non-exclusive Park Property Easement "AS IS" and "WITH ALL FAULTS" in its present state and condition and "SUBJECT TO" existing easements as of completion of this real property transfer.

Indemnification

4. The Cemetery District waives any and all claims, and agrees to indemnify, defend, save and hold harmless County and its elected and appointed officers, employees, and agents (collectively "County Indemnified Parties"), from and against any and all liability, expense (including without limitation defense costs and legal fees), and claims for damages of any nature whatsoever, related to or arising out of the Cemetery District's use, maintenance, and/or condition of the Easement.

Notices

5. Any written notices required by this Agreement shall be made by personal delivery, or by first class United States mail, postage prepaid, to the addresses indicated below:

For District: Nevada Cemetery District Board of Trustees
P.O. Box 2400
Nevada City, CA 95959

For County: County of Nevada
Information and General Services Department
950 Maidu Avenue
Nevada City, CA 95959

with copy to: Facilities Management
County of Nevada
10014 N. Bloomfield
Nevada City, CA 95959

and copy to: County Counsel
County of Nevada
950 Maidu Avenue, Suite 240
Nevada City, CA 95959

Cooperation

6. The parties will cooperate fully with each other and other easement holders to accomplish the purposes of this Agreement, and they shall, on reasonable demand, execute and deliver such documents as may be reasonably necessary to effect such purposes.

Third Party Beneficiaries

7. There shall be no third party beneficiaries to this Agreement, except as provided herein.

Waivers; Amendment

8. This Agreement contains all the agreements of the parties hereto and cannot be amended or modified except by a written agreement executed by the parties. No waiver by either party of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provision.

Governing Law; Venue

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

Final Agreement


10. This Agreement and the exhibits attached hereto contain the entire agreement of the parties with respect to the real property transfer contemplated by this Agreement and supersedes any prior agreement, oral or written, between Cemetery District and County, about the subject matter hereof. No contemporaneous or subsequent agreement, amendment, representation or promise made by either party hereto, or by or to any employee, officer, agent, or representative of either party, shall be of any effect unless it is in writing and executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials, effective as of the day and year first written above.

COUNTY OF NEVADA

By: 
Honorable Dan Miller
Chair, Board of Supervisors


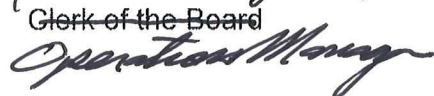
NEVADA CEMETERY DISTRICT

By: 
Dennis Cassella
Chair, Nevada Cemetery Board
of Trustees

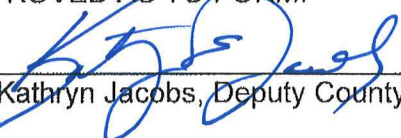
ATTEST:

By: 
Julie Patterson-Hunter,
Clerk of the Board

ATTEST:

By: 
Nevada Cemetery District,
Clerk of the Board


APPROVED AS TO FORM:

By: 
Kathryn Jacobs, Deputy County Counsel

ACCEPTANCE

This is to certify that the interest in real property conveyed by this document to the Nevada Cemetery District, a special district, is hereby accepted by the undersigned on behalf of the Board of Trustees of the Nevada Cemetery District pursuant to authority conferred by Resolution No. 2016-1 of said Board adopted on April 27, 2016.

Dated: May 18, 2016

DISTRICT

By: 

Honorable

Chair, Board of Trustees

A Notary Public or other official completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document

STATE OF CALIFORNIA

COUNTY OF NEVADA

On May 18th 2016, before me, Colin Miller notary public

personally appeared Dennis G. Cassella, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Colin Miller

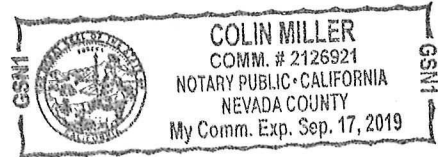


EXHIBIT "A"

An Easement over & across all that real property situated within Section 33, Township 16 North, Range 7 East, M.D.B.&M., within the unincorporated territory of the County of Nevada and being a portion of that certain property to the County of Nevada as described in deed document recorded March 6, 1972 in Volume 591 at Page 689, Official Records of Nevada County and as shown on that certain Record of Survey Map recorded in 1972 (no month or day noted on map) in Book 4 of Surveys at Page 199, Nevada County Recorder's Office, and being more particularly described as follows:

Beginning at the southeast corner of said County of Nevada property and parcel as shown on said Record of Survey Map and being a point on the northerly right-of-way line of Penn Valley Drive from which the East Quarter Corner of said Section 33 bears North 00° 50' 00" West, 1,061.43 feet; thence from said Point of Beginning northwesterly along the northerly right-of-way line of Penn Valley Drive, North 76° 14' 00" West, 62.00 feet to the southeast corner of Parcel 4 as shown on that certain Parcel Map recorded December 5, 1973 in Book 6 of Parcel Maps at Page 157; thence leaving the northerly right-of-way of Penn Valley Drive and along the east line of said Parcel 4, North 00° 50' 00" West, 631.80 feet to the centerline of Squirrel Creek; thence easterly along the centerline of Squirrel Creek the following two courses: 1) North 77° 10' 00" East, 46.92 feet and 2) North 72° 00' 00" East, 14.76 feet to a point on the east line of said County of Nevada property and being the east line of said Section 33; thence southerly along the east line of said County of Nevada property and Section 33, South 00° 50' 00" East, 661.54 feet to the Point of Beginning.

The herein described property contains an area of 38,768 square feet (0.89 acres), more or less.

The herein described property is shown on Exhibit "B" attached hereto and made a part hereof.

The herein described property affects a portion of APN 51-220-16.

This description has been prepared by me, or under my direct supervision, in conformance with the Professional Land Surveyors Act, on January 28, 2016.

Kevin J. Nelson

Kevin J. Nelson, P.L.S. 8423
Expires 12-31-16

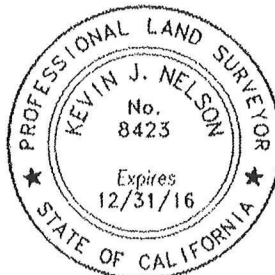
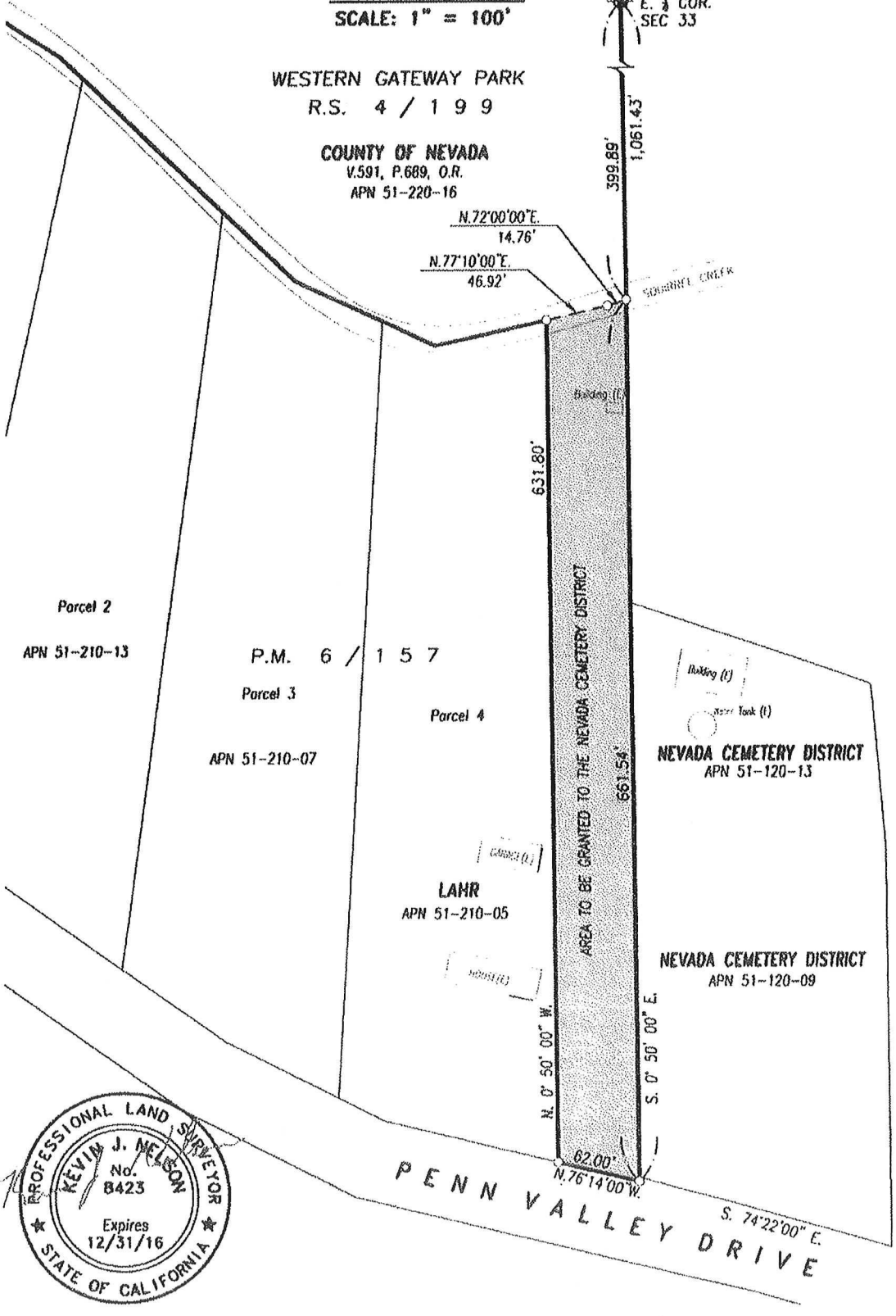


EXHIBIT "B"
SCALE: 1" = 100'

WESTERN GATEWAY PARK
R.S. 4 / 199

COUNTY OF NEVADA
V.591, P.689, O.R.
APN 51-220-16

E. 1/4 COR.
SEC 33



PENN VALLEY DRIVE

NEVADA CEMETERY DISTRICT

RESOLUTION NO. 2016-1

RESOLUTION OF ACCEPTANCE OF AN EASEMENT AGREEMENT FROM THE COUNTY OF NEVADA GRANTING AN EASEMENT ON A PORTION (0.89 ACRES) OF ITS INTEREST IN ASSESSOR PARCEL 51-220-16 TO THE NEVADA CEMETERY DISTRICT FOR PUBLIC CEMETERY ACCESS USE AND RESCINDING RESOLUTION 2015-7 CONCERNING THIS SAME PROPERTY ACCESS.

WHEREAS, the Board of Trustees of the Nevada Cemetery District has previously purchased property from the Nevada Irrigation District for expansion of the Penn Valley Cemetery, and

WHEREAS, the Board of Trustees of the Nevada Cemetery District desires to obtain recorded access to this additional property acquired from the Nevada Irrigation District, and

WHEREAS, the County of Nevada is the present owner of the desired access route and is willing to recorded an Easement Agreement for access by the Nevada Cemetery District upon mutually agreed terms.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ORDERED THAT,

- 1. This resolution is to certify that the interest in real property conveyed by the Easement Agreement dated May __, 2016 from the County of Nevada to the Nevada Cemetery District, a special district, is hereby accepted upon mutually agreed terms by order of the Nevada Cemetery District Board of Trustees on April 27, 2016, and**
- 2. The Board of Trustees of the Nevada Cemetery District authorizes its Chairperson to sign the Easement Agreement with the County of Nevada, and**
- 3. The Board of Trustees of the Nevada Cemetery District authorizes its Chairperson to accept the Easement Agreement and to consent to recordation thereof and request that the Nevada County Recorder make such recordation.**

FURTHERMORE, BE IT HEREBY RESOLVED THAT:

Resolution 2015-7 adopted on June 17, 2015, concerning this same property access is hereby rescinded.

ADOPTED by the Board of Trustees of the Nevada Cemetery District on the 27th day of April 2016, by the following vote:

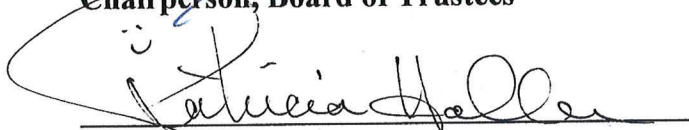
	AYES	NOES	ABSTAIN	ABSENT
Sushila Mertens	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Gerald Bushore	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Michael Hurst	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
Alan Archer	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
Dennis Cassella	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Totals	<u> 3 </u>	<u> 0 </u>	<u> 0 </u>	<u> 2 </u>

ATTEST:



Dennis Cassella
Chairperson, Board of Trustees

April 27, 2016
Date



Patricia Haller
Acting Secretary to the Board of Trustees

April 27, 2016
Date