

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Resolution 2015-7 adopted on June 17, 2015, concerning this same property access is hereby rescinded.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

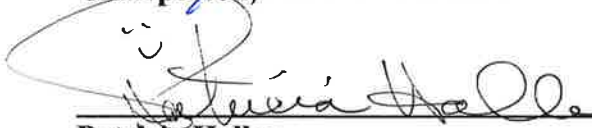
ATTEST:



Dennis Cassella
 Chairperson, Board of Trustees

 April 27, 2016

Date



Patricia Haller
 Acting Secretary to the Board of Trustees

 April 27, 2016

Date

RECORDING REQUESTED BY
County of Nevada

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

_____ [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 _____, 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.

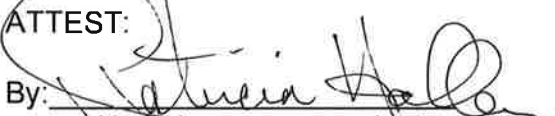
COUNTY OF NEVADA

NEVADA CEMETERY DISTRICT

By: _____
Honorable Dan Miller
Chair, Board of Supervisors

By: 
Dennis Cassella
Chair, Nevada Cemetery Board
of Trustees

ATTEST:

ATTEST: 
By: _____
Julie Patterson-Hunter,
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: April 27, 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 April 27th 2016, before me, Colin Miller notary public

personally appeared Dennis gene 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.

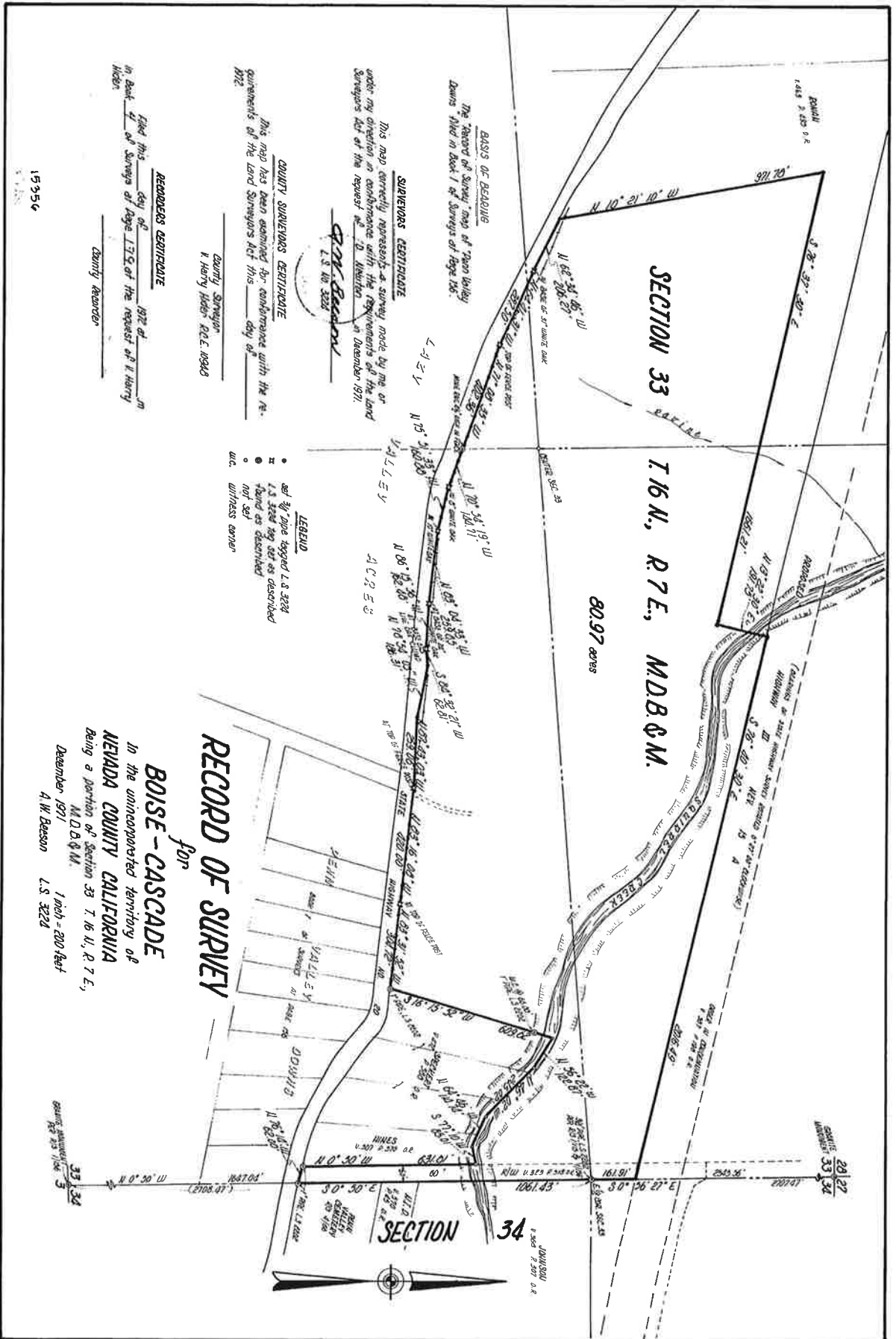
This description has been prepared by me, or under my direct supervision, in conformance with the Professional Land Surveyors Act, on January 28, 2016.

Kevin J. Nelson

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



RS BK 4
 MAY 199
 Pg 17



SECTION 33
 T.16N., R.7E., M.D.B. & M.
 8097' DRIVE

SECTION 34

RAILROAD

DRAINAGE

LEGEND

- and 3/4" type beyond L.S. 3224
- L.S. 3224 not as described
- have as described
- not set
- w.c. witness corner

BASES OF DEGREE
 The record of Survey map of "Iron Valley Drains" filed in Book 1 of Surveys of Range 18.

SURVEYORS CERTIFICATE
 This map correctly represents a survey made by me or under my direction in accordance with the requirements of the land Surveyors Act of the request of "D. Keston" in December 1971.

A.W. Basson
 L.S. 18 3224

COUNTY SURVEYORS CERTIFICATE
 This map has been examined for compliance with the requirements of the land Surveyors Act this day of _____ 1972.

County Surveyor
 V. Harry Hilder R.C.E. 10943

RECORDED CERTIFICATE
 filed this day of _____ 1972 of _____ in Book 4 of Surveys of Range 17 of the request of V. Harry Hilder
 County Recorder

15956
 L.S. 17 1111

RECORD OF SURVEY
 for
BOISE - CASCADE
 In the unincorporated territory of
NEVADA COUNTY CALIFORNIA
 Being a portion of Section 33 T. 16 N., R. 7 E.,
 M.D.B. & M.
 1 inch = 200 feet
 December 1971
 A. W. Basson L.S. 3224

Drawn by: S.C. 2256
 Date Rec: 1-10-72
 Check by: S.C. 2256

ER-740