

**OFFICIAL RECORD**

Requested By:  
NORTHERN NEVADA TITLE

APN: 1220-04-501-006 <sup>New</sup>  
1220-04-501-007 <sup>1220-04-501-019</sup>  
1220-04-501-008 <sup>New</sup> <sup>1220-04-501-018</sup>

Douglas County - NV  
Werner Christen - Recorder  
Page: 1 of 12 Fee: 50.00  
BK-0106 PG-9328 RPTT: 0.00



ORDER NO.: DO-1050028-LS

FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT: DITCH ABANDONMENT AND RELOCATION AGREEMENT

WHEN RECORDED MAIL TO:

Bencor/Waterloo L.P.  
Attn: Jon Gorski  
90 S. Cascade, Suite 330  
Colorado Springs, CO 80903

## DITCH ABANDONMENT AND RELOCATION AGREEMENT

This agreement is made effective this 30<sup>th</sup> day of Nov., 2005 by and between Roy Farrow and Madalena Farrow (herein jointly "Farrow") and Bencor/Waterloo L.P. ("Bencor").

### RECITALS

- A. FARROW is the owner of that real property described on Exhibit A attached hereto (the "Farrow Property").
- B. Bencor is the owner of that real property described on Exhibit B attached hereto (the "Bencor Property").
- C. The Water Advisory Board on July 11, 2005 approved the abandonment of all irrigation ditches on the Bencor Property and the Farrow Property. A true and correct copy of the official minutes are attached hereto as Exhibit C.
- D. The Bencor Property and the Farrow Property are adjacent. The parties wish to document their agreements and understanding with regard to the ditches that cross both properties.

### AGREEMENT

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged. Bencor and Farrow agree as follows:

1. All ditches, whether irrigation or drainage, across the Bencor Property or the Farrow Property (but excluding Cottonwood Slough) as such ditches are shown on surveys shown on Record of Survey Map No. 28058 and Record of Survey Map No. 228900, Records of Douglas County, Nevada are hereby abandoned.
2. Farrow and Bencor also specifically and expressly abandon the following ditch easements across the Farrow Property and Bencor Property:
  - a. That easement granted to H.F. Danberg recorded March 31, 1879 in Book F of Deeds at Page 484, Records of Douglas County, Nevada and;
  - b. That easement granted to H.F. Danberg recorded March 20, 1882 in Book F of Deeds at Page 783, Records of Douglas County, Nevada.



3. Bencor and Farrow acknowledge and upon information and belief, believe that all the irrigation ditches on both properties have not been used for more than ten years and by this abandonment, the irrigation ditches shall not be replaced or relocated.
4. The parties acknowledge that the storm drainage ditch is in use. The parties shall relocate the drainage ditch to the location shown on Exhibit D attached hereto. The drainage ditches shall convey storm water run-off from property other than the Bencor Property and the Farrow Property. After the storm drainage enters the Bencor Property, such drainage will be put into a pipe and open ditches shall no longer be allowed on the Bencor Property or the Farrow Property for off-site drainage.
5. Bencor and Farrow shall cooperate in relocating the drainage ditch to the location shown on Exhibit D. Each party shall pay for the relocation of the drainage ditch on its own property after a boundary line adjustment is completed. The drainage will enter the Bencor Property in the same location as it does today and it will exit the Farrow Property in the same location that it does today.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the day and year first above written.

**Roy and Madalena Farrow**

By: \_\_\_\_\_

Roy Farrow

By: \_\_\_\_\_

Madalena Farrow

**BENCOR/Waterloo, L.P.**

By: Bencor Development LLC  
Its General Partner

By: \_\_\_\_\_

Ray Walkowski  
Its Manager

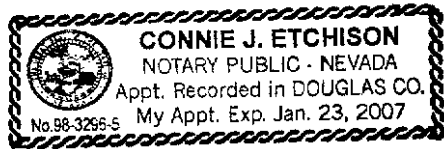


STATE OF Nevada )  
 ) SS.  
COUNTY OF Carson City )

Before me, Connie J. Etchison, on this day personally appeared Roy Farrow known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this 30th day of November, 2005.

(Seal)



Connie J. Etchison  
Notary Public

Connie J. Etchison

Print Name

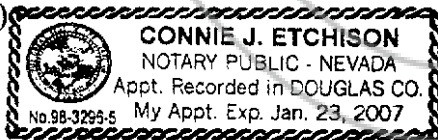
My Commission Expires: 1/23/07

STATE OF Nevada )  
 ) SS.  
COUNTY OF Carson City )

Before me, Connie J. Etchison, on this day personally appeared Madalena Farrow known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this 30th day of November, 2005.

(Seal)



Connie J. Etchison  
Notary Public

Connie J. Etchison

Print Name

My Commission Expires: 1/23/07



STATE OF COLORADO )  
 ) SS.  
COUNTY OF EL PASO )

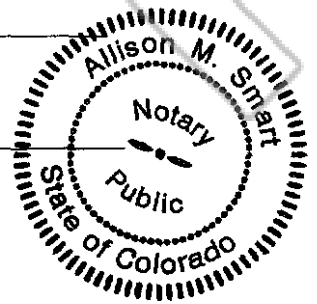
Before me, Allison M. Smart, on this day personally appeared Ray Walkowski, Manager of Bencor/Waterloo, L.P., a Nevada limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said limited liability company.

Given under my hand and seal of office this 18<sup>th</sup> day of November, 2005.

(Seal)

Allison M. Smart  
Notary Public

Allison M. Smart  
Print Name



My Commission Expires: 8/9/2009

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Portions of that certain property within Douglas County, Nevada situate in Section 4, Township 12 North, Range 20 East, M.D.M., as shown as parcel "APN 25-142-15 (5.70 acres)" on Record of Survey recorded June 26, 1990 as Document No. 228900, in Official Records, described as follows:

Commencing at the most Southerly point of said APN 25-142-15;  
Thence N 44°20'17" W, a distance of 116.63 feet;  
Thence N 48°25'33" W, a distance of 262.19 feet;  
Thence N 27°03'34" W, a distance of 159.20 feet;  
Thence N 11°51'40" W, a distance of 303.15 feet;  
Thence N 00°29'47" W, a distance of 222.90 feet;  
Thence N 58°37'17" E, a distance of 42.65 feet;  
Thence along the Southwesterly line of US Highway S 50°18'53" E, a distance of 604.25 Feet;  
Thence S 39°26'27" W, a distance of 270.70 feet;  
Thence S 50°00'45" E, a distance of 305.61 feet;  
Thence S 45°39'43" W along the Northwesterly right-of-way line of Waterloo Lane a distance of 214.13 feet to the point of beginning.  
Containing 5.91 acres, more or less.  
Basis of bearings is Nevada State Plane Coordinates, West Zone, NAD 83/94.

NOTE: Legal description prepared by Jeff Codega Planning/Design Inc.  
Address: 433 W. Plumb Lane, Reno, NV 89509



**EXHIBIT "B"**  
**LEGAL DESCRIPTION**

APN: 1220-04-501-007 & 008 AND A PORTION OF 1220-04-501-006

PORTIONS OF THAT CERTAIN PROPERTY WITHIN DOUGLAS COUNTY, NEVADA SITUATE IN SECTION 4, TOWNSHIP 12 NORTH, RANGE 20 EAST, M.D.M., AS SHOWN AS PARCELS "APN 25-142-15 (5.70 ACRES), "APN 25-142-16 (42,000 S.F.)" AND "APN 25-142-17 (53,276 S.F.)" ON RECORD OF SURVEY RECORDED JUNE 26, 1990 AS DOCUMENT #228900, IN OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

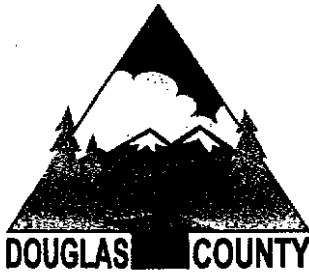
COMMENCING AT THE MOST NORTHERLY POINT OF SAID "APN 25-142-16";  
THENCE ALONG THE LINE OF US HWY 395 S 50°18'53" E, A DISTANCE OF 136.28 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE LINE OF US HWY 395 S 50°18'53" E, A DISTANCE OF 317.61 FEET;  
THENCE S 88°18'01" W, A DISTANCE OF 37.04 FEET,  
THENCE ALONG A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, WITH A RADIUS OF 100.00 FEET, THROUGH AN ANGLE OF 55°00'26", AND AN ARC LENGTH OF 96.00 FEET, A CHORD BEARING S 18°10'19" W, A DISTANCE OF 92.36 FEET;  
THENCE ALONG THE LINE OF WATERLOO LANE S 45°39'43" W, A DISTANCE OF 162.78 FEET;  
THENCE N 50°00'45" W, A DISTANCE OF 305.61 FEET;  
THENCE N 39°26'27" E, A DISTANCE OF 270.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.95 ACRES, MORE OR LESS.

BASIS OF BEARINGS IS NEVADA STATE PLANE COORDINATE SYSTEM, WEST ZONE.

NOTE: Legal description prepared by Jeff Codega Planning/Design Inc.  
Address: 433 W. Plumb Lane, Reno, NV 89509





**COMMUNITY DEVELOPMENT**

1594 Esmeralda Avenue, Minden, Nevada 89423

Bob Nunes  
DIRECTOR

775-782-9005  
775-782-9010  
FAX: 775-782-9007

Planning Division  
Engineering Division  
Building Division  
Regional Transportation  
Water/Sewer Utility  
Road Maintenance  
Code Enforcement

**WATER CONVEYANCE ADVISORY COMMITTEE**

**MINUTES OF THE JULY 11, 2005 MEETING**

**I. Call to Order.**

Chairman Dennis Jensen called the meeting to order at 4:04 p.m.

WCAC members present include Dennis Jensen, Chairman; David Hussman; Arnold Settlemeyer; and Russell Scossa.

WCAC member absent is Domingo Uhart, Vice Chairman.

Staff present includes Tom Perkins, Deputy District Attorney III; Heather Bovat, Senior Planner; Barbra Resnik, PE, Assistant Engineer; and Melanie Forrester, Senior Secretary.

**II. Disposition of the June 6, 2005 Water Conveyance Advisory Committee meeting minutes.**

Chairman Jensen approved the minutes.

**III. Public Comment.**

No public comment.

**IV. Discussion and Possible Action.**

**(1) (LDA) 05-040 Tentative Parcel Map Continued from June 6, 2005 WCAC Meeting**

**Applicant:** American Professional Valuation, LLC  
**Owner:** American Professional Valuation, LLC  
**Request:** A Tentative Parcel Map to divide a 40-acre parcel into two (2) parcels, the smallest being 19.0 net acres within the A-19 (Agricultural, 19-acre minimum parcel size) zoning district and within the South Agricultural Planning Area.  
**Location:** Cougar Road, 3,300 feet north of Artemesia Lane and 4,178 feet east of Foothill Road, Gardnerville  
**APN:** 1219-14-002-052

BK- 0106  
PG- 9335  
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0666675



EXHIBIT "C"

WCAC Minutes  
July 11, 2005

Case Planner: Tammy Vogl (775) 782-6218

Chairman Jensen stated staff received a letter from R.O. Anderson Engineering, Inc., requesting that (LDA) 05-040 be continued to the August 1, 2005 WCAC meeting.

**(2) Ditch Abandonment (ref. DA 05-014)**

Applicant: Bencor/Waterloo L.P.

Owner: Roy Farrow

Request: To abandon the irrigation ditch on the proposed Walgreens project site located within a NC (Neighborhood Commercial) zoning district within the Minden/Gardnerville Planning Area.

Location: 1342 & 1346 Hwy 395, Gardnerville

APN: 1220-04-501-007 & 1220-04-501-008

Case Planner: Heather Bovat (775) 782-6213

Mike Railey, representing the applicant, introduced the project. He stated the applicant would like to abandon the irrigation ditch.

Tom Perkins said the WCAC can approve or deny the abandonment of the ditch. He said if the applicant wants to abandon the ditch easement that is a different process.

Mike Railey said there is not a recorded easement on the property.

Arlen Neal gave the background on the property and the ditch. He said the WCAC should abide by what the Town of Gardnerville requires because they do need drainage from the intersection.

Jennifer Roman, engineer representing the Town of Gardnerville, said the drainage from Carson Valley Estates flows through there.

Mike Railey stated the applicant has accounted for that drainage.

Arlen Neal said he would like to have a sand/oil separator installed.

Discussion of the proposed project, drainage and the ditch followed.

Arnold Settlemeyer said the issue before the WCAC is to abandon the irrigation portion of the ditch. He said there is not a point of diversion from the ditch. He said the WCAC could approve the abandonment as long as the WCAC meets the Town of Gardnerville's specifications of providing for storm drainage.

Jennifer Roman stated the applicant must maintain the storm drainage.

Arnold Settlemeyer motioned to approve the Ditch Abandonment (ref. DA 05-014) for Bencor/Waterloo L.P. stating that the irrigation portion of the ditch that traverses the property from east to west be abandoned.

EXHIBIT "C"

WCAC Minutes  
July 11, 2005

David Hussman seconded the motion.

All in favor say aye (Aye - 4). All opposed say nay (Nay - 0). Motion carried with Domingo Uhart absent.

**V. Administrative.**

**(1) Discussion of the 2005 Ditch Tour.**

Arlen Neal thanked Heather Bovat and the Planning Staff for their work in preparing for the Ditch Tour. He thanked the WCAC for conducting the tour. He said that during the tour the WCAC talked about moving the pole line ditch.

Chairman Jensen stated he needs to talk to the Board of Directors before going any further.

Arnold Settlemeyer said the tour was the best held to date.

Arlen Neal said the next tour should include the West Fork.

David Hussman said he received several positive comments regarding the tour.

**(2) Discussion regarding any correspondence received since the June 6, 2005, Water Conveyance Advisory Committee meeting.**

No correspondence presented.

**VI. Adjournment.**

Chairman Jensen adjourned the meeting at 4:20 p.m.

\_\_\_\_\_  
Melanie Forrester  
Senior Secretary

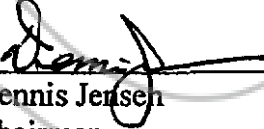
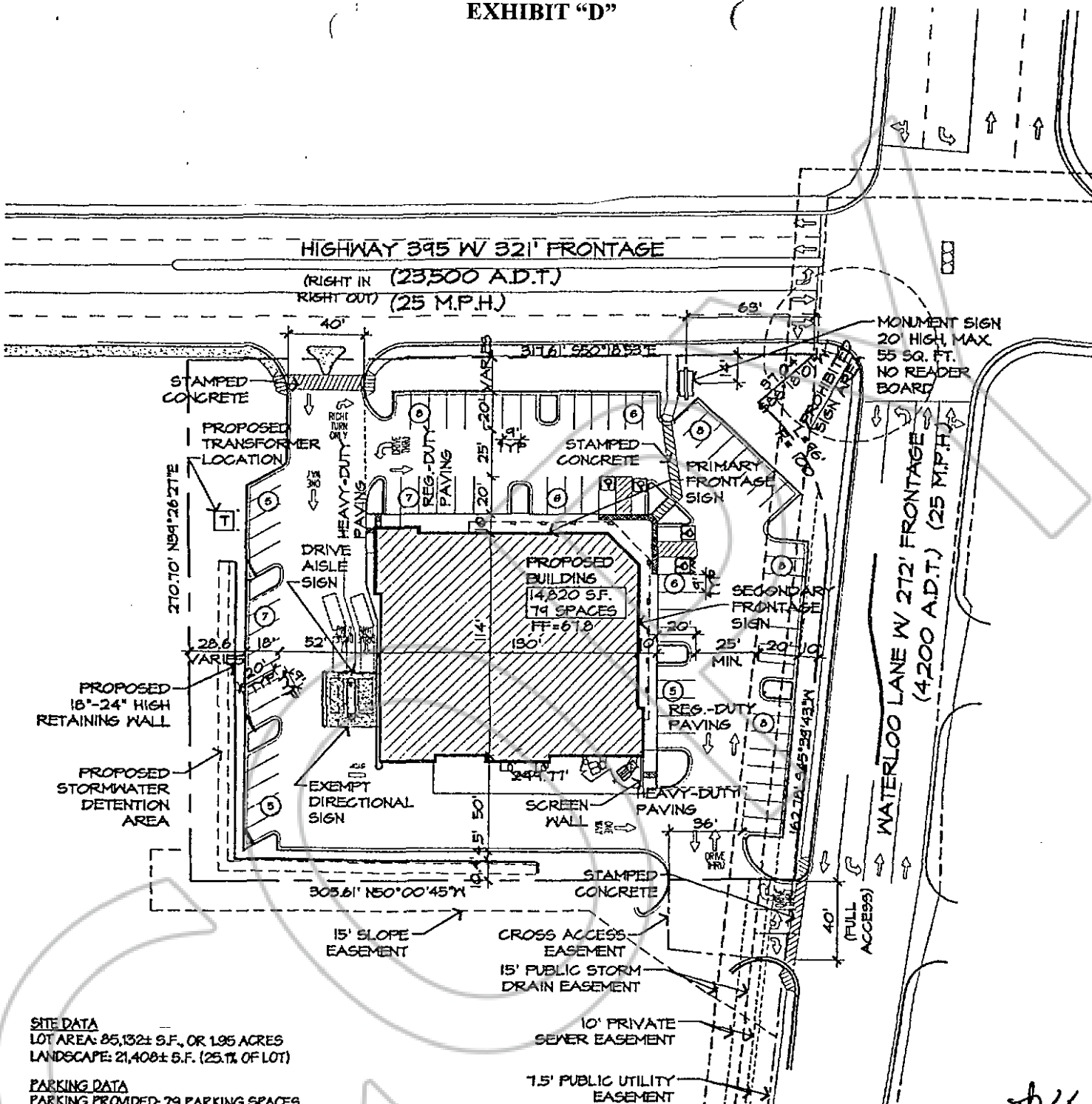
  
\_\_\_\_\_  
Dennis Jensen  
Chairman

EXHIBIT "D"



**SITE DATA**

LOT AREA: 85,132± S.F., OR 1.95 ACRES  
 LANDSCAPE: 21,408± S.F. (25.1% OF LOT)

**PARKING DATA**

PARKING PROVIDED: 79 PARKING SPACES  
 PARKING REQUIRED: 60 PARKING SPACES

PROJECT NO. ON241  
 DATE: 10/19/04  
 REV: 10/26/04  
 REV: 11/30/04  
 REV: 01/18/05  
 REV: 02/02/05 -EJD-  
 REV: 02/08/05 -EJD-  
 REV: 02/09/05 -EJD-  
 REV: 02/14/05 -CM

REV: 04/13/05 - DP  
 REV: 05/03/05 - EJD  
 REV: 05/04/05 - EJD  
 REV: 05/06/05 - EJD  
 REV: 05/09/05 - EJD  
 REV: 05/10/05 - EJD  
 REV: 05/11/05 - EJD  
 REV: 05/12/05 - EJD  
 REV: 05/16/05 - EJD  
 REV: 05/19/05 - EJD  
 REV: 05/24/05 - EJD  
 REV: 09/23/05 - RM

**WALGREENS**  
**# 9864**

*T. Gallup*  
 9.27.05



NORTH



SCALE IN FEET

**BENCOR, LLC**  
**COLORADO SPRINGS, CO.**

**PROPOSED SITE PLAN**

(NWC) HWY. 395 & WATERLOO  
 GARDNERVILLE, NV

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**TIMOTHY M. GALLUP**

Architect of Record

9 East 4th Street, Suite 1000, Tulsa, Oklahoma 74103  
 (918) 584-8855 • (918) 584-2880 FAX

