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DOC # 0793080  
11/22/2011 03:30 PM Deputy: SG  
OFFICIAL RECORD  
Requested By:  
TOWN OF GARDNERVILLE

APN: 1320-32-602-004

RECORDING REQUESTED BY AND  
MAIL TO:

The Town of Gardnerville  
c/o Rowe & Hales, LLP  
1638 Esmeralda Avenue  
Minden, NV 89423

Douglas County - NV  
Karen Ellison - Recorder

Page: 1 Of 8 Fee: 21.00  
BK-1111 PG- 5103 RPTT: 0.00



**PUBLIC ACCESS EASEMENT**

THIS Public Access Easement is entered into this 17<sup>th</sup> day of November, 2011, by and between the Grantor, E. James and M. Jane Stratton Family Trust, u.t.d. 9/11/85 ("Grantor") and Grantee, the Town of Gardnerville, an unincorporated town ("Grantee"). Grantor and Grantee are sometimes individually referred to as "Party" and may collectively referred to as "Parties".

**WITNESSETH**

A. Grantor is the owner of that certain real property located in Douglas County, Nevada, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Grantor desires to grant, and Grantee desires to acquire, a perpetual non-exclusive public access easement over, through and under that portion of the property described in Exhibit "A", more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Easement Area") and depicted on the map attached hereto as Exhibit "C".

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Recitals:** The foregoing recitals are true and correct and are incorporated herein.

2. **Grant of Easement:** The Grantor hereby grants and conveys to the Grantee a perpetual non-exclusive, rent free public access easement over, through and under the Easement Area for the following purposes:

a. Pedestrian Ingress and Egress upon the property located within the Public Access Easement;

b. The maintenance, repair (including necessary replacements and reconstruction) of the improvements located within the Easement Area and any appurtenances reasonably connected therewith; provided, however, that the existing improvements within the Easement Area shall not be materially changed without the written consent of Grantor;

c. The maintenance, installation and repair (including necessary replacements and reconstruction) of any and all improvements in any way related to the placement of a public bench with the Public Access Easement; and

d. Such access, ingress and egress over the Easement Area as may be necessary or useful to enjoy the foregoing rights.

3. **Use of Public Access Easement:** The purpose of this Public Access Easement is to provide year round pedestrian access over and across the Easement Area and for the placement of a public bench. The Public Access Easement shall also provide year round pedestrian access for ingress and egress for the general public over and across the Easement Area. Nothing in this Public Access Easement is intended to prohibit the use of the Public Access Easement by the Grantor, provided such use does not interfere with the use of the Public Access Easement by the Grantee, and the general public.

4. **Improvements:** The Grantee shall have the right to construct at its sole expense, improvements on the easement property suitable for the uses delineated in this Public Access Easement, including, but not limited to, the placement of a public bench within the Easement Area. The Grantee shall also have the right to post signs on the easement property notifying the public of their right to use the park bench and who supplied the funds for the installation of the park bench. The Grantor shall not be obligated to install any of these improvements. Any improvements within the Easement Area made by the Grantor shall be subject to prior written approval of the Grantee.

5. **Maintenance:** The Grantee shall be responsible for maintaining the improvements within the Easement Area to the extent necessary for the uses described in the Public Access Easement.

6. **Indemnity:** Each Party to this Agreement hereby agrees that such Party (the "Indemnifying Party") shall defend, protect, indemnify, and hold harmless each other Party (the "Protected Party") from and against any and all damages, losses, expenses, and fines based upon any claim of personal injury or property damage occurring during the term of this Agreement and resulting from the Indemnifying Party's use of, construction upon, or maintenance of, the Easement Area or the Improvements, except to the extent arising from the Protected Party's own negligence or misconduct, or that of the Protected Party's agents, tenants, licensees, or invitees. In the event that the Protected Party receives notice of any claim potentially implicating the Indemnifying Party's duties under this Section 4, the Protected Party shall inform the Indemnifying Party of the claim as soon as is reasonably possible, and in any event within ten (10) days of receiving notice of such claim. The Protected Party's failure to timely inform the Indemnifying Party of a claim shall waive the Protected Party's rights under this Section 4 as to that claim.

7. **Easement Runs with Land; Successors and Assigns:** The easement created in this Agreement is perpetual in nature, appurtenant to the Dominant Property, and shall run with the Dominant Property and benefit any owner of any portion of the Dominant Property in perpetuity. The provisions of this Agreement shall be binding upon the successors and assigns of Grantor and Grantee. Grantor and Grantee shall be responsible for their respective obligations that accrue during their ownership of their respective parcels; provided, however, in the event that either Party conveys, transfers, assigns, or otherwise disposes of all of its interest in the property described in either Exhibit "A" or Exhibit "B", as the case may be, the transferring party shall be released and discharged from any liabilities and obligations under this Agreement that occur after such transfer.

8. **Notices:** All communications which may be, or are required to be, given by either Party to this Agreement shall be properly given if made in writing and sent by: (a) hand delivery; (b) certified mail, return receipt requested; (c) facsimile, provided a confirming copy thereof is also sent in accordance with (a), (b), or (d); or (d) Federal Express or another nationally recognized overnight delivery service for next business day delivery, with all postage, delivery, and other charges paid by the sender and addressed to Grantor or Grantee, as applicable, as follows, or at such other address as each may request in advance in writing. Such notices shall be deemed delivered: (i) by hand, upon actual delivery; (ii) by overnight delivery service, on the next business day after the notice is sent; (iii) by facsimile, on the next business day after the date the notice is sent; and (iv) if mailed, upon the earlier of actual receipt or three (3) business days after mailing. Refusal of delivery shall be deemed effective delivery. Unless changed as provided in this Section 6, notice addresses are as follows:

If to Grantor:

E. James and M. Jane Stratton Family Trust, u.t.d. 9/11/85  
Attn: Steven Stratton  
P.O. Box 187  
Minden, NV 89423  
1540 Hwy. 395  
Gardnerville, NV 89410  
Telephone: 775-790-0782  
Facsimile: 775-782-1994

If to Grantee:

Town of Gardnerville  
1407 Hwy. 395  
Gardnerville, NV 89410  
Telephone: 775-782-7134  
Facsimile: 775-782-7135

9. **Damage to Easement Property:** The Grantor and Grantee shall be responsible for any damage they may cause to the improvements within the Easement Area. The Party

responsible for such damage shall promptly make all needed repairs, restoring the Easement Area and improvements thereon to its condition prior to the damage.

10. **Obstructions to Use of the Easement Property:** Neither the Grantor nor the Grantee or any person permitted to use the Easement Area under the terms of this Public Access Easement may utilize the Easement Area in any way that interferes with its use by any person permitted to use it. Any obstructions or impediments to the use of the Easement Area may be removed, without notice, by the Grantor or Grantee and the cost of such removal shall be borne by the party responsible for such obstruction.


11. **Enforcement of Agreement:** The Grantor and Grantee shall have the right to legally enforce this Public Access Easement and the covenants, conditions and restrictions set forth herein, whatever action or actions are legally available, including, without limitation, enjoining any violation or threatened violation hereof.

12. **Amendments:** This Public Access Easement may not be modified, amended or terminated except by execution and recording of a written instrument signed by both Grantor and Grantee.

13. **Breach Shall Not Permit Termination:** No breach of this Public Access Easement shall entitle either party to terminate this Public Access Easement or to bring any action for termination; provided, however, that such limitation shall not impact any other rights that may be available to such party.

14. **Severability:** If any provision or specific application of this Public Access Easement is found to be invalid by a court of competent jurisdiction, the remaining provisions or specific applications of this Public Access Easement shall remain valid and binding.

IN WITNESS WHEREOF, E. James and M. Jane Stratton Family Trust, u.t.d. 9/11/85 has agreed to and executed this Public Access Easement this 17th day of November, 2011.

  
E. James and M. Jane Stratton Family Trust, u.t.d. 9/11/85  
By Its: Trustee

**ACKNOWLEDGEMENT**

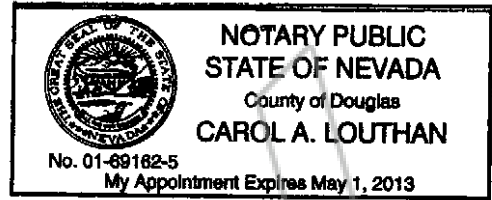
STATE OF NEVADA )  
 ) ss.  
COUNTY OF Douglas )

On November 17th, 2011, before me, the undersigned, a Notarial Officer in and for said County and State, personally appeared Steven Stratton known to me to be the person

whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

*Carol A. Louthan*  
NOTARIAL OFFICER



**ACCEPTANCE OF EASEMENT HOLDER'S INTEREST**

The foregoing Public Access Easement is hereby duly accepted by the Town of Gardnerville this 17th day of November, 2011.

Accepted this 17th day of November, 2011.

*Thomas A. Dallaire*  
Thomas A. Dallaire  
Town Manager  
The Town of Gardnerville

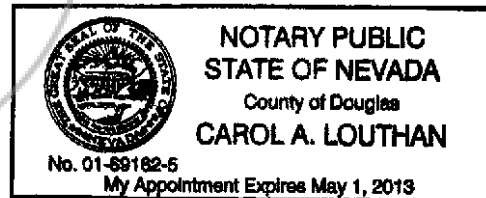
**ACKNOWLEDGEMENT**

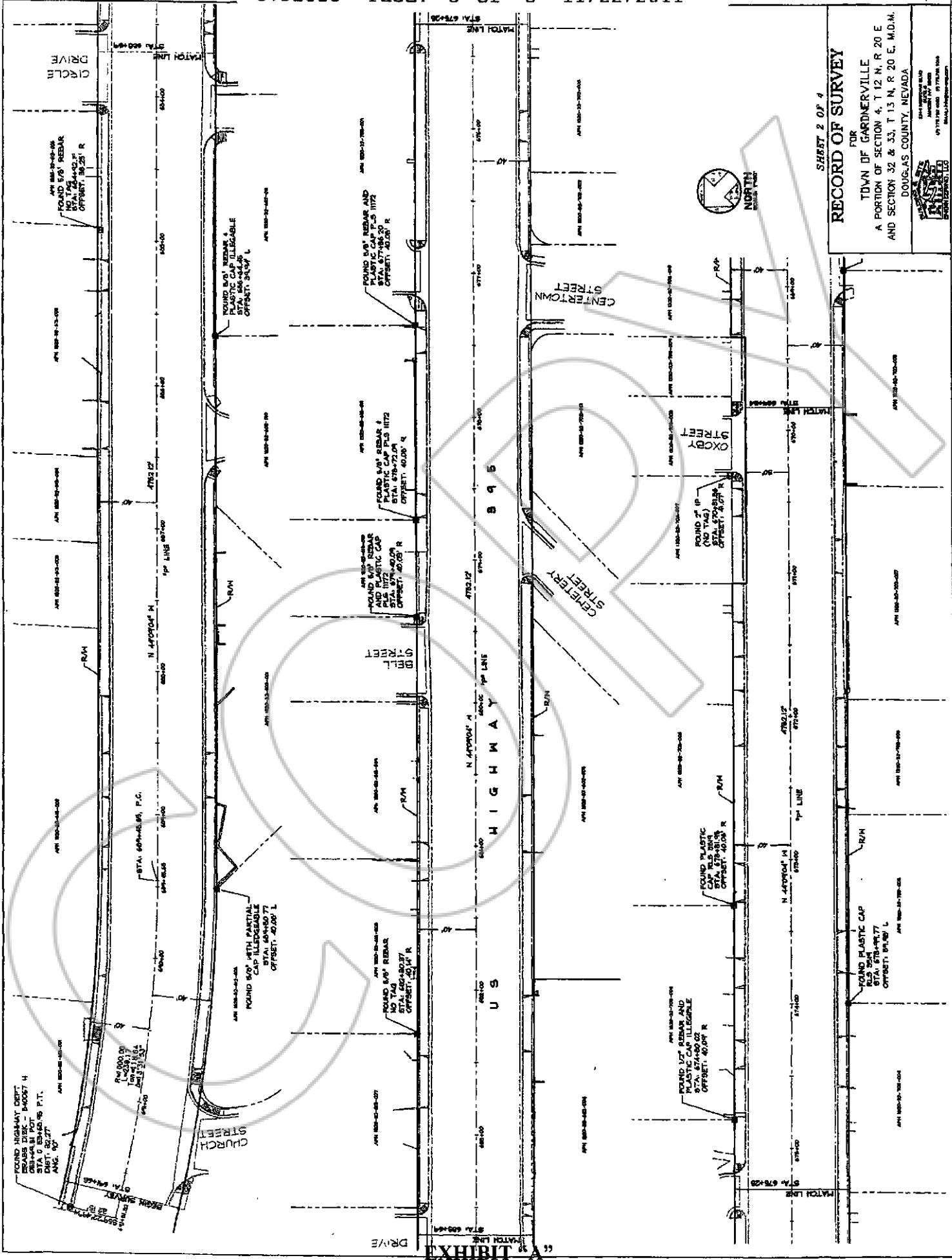
STATE OF NEVADA )  
 ) ss.  
COUNTY OF Douglas )

On November 17, 2011, before me, the undersigned, a Notarial Officer in and for said County and State, personally appeared THOMAS A. DALLAIRE known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

NOTARIAL OFFICER





RECORD OF SURVEY  
FOR  
TOWN OF GARDNERVILLE  
A PORTION OF SECTION 4, T 12 N, R 20 E  
AND SECTION 32 & 33, T 13 N, R 20 E, M.D.M.  
DOUGLAS COUNTY, NEVADA

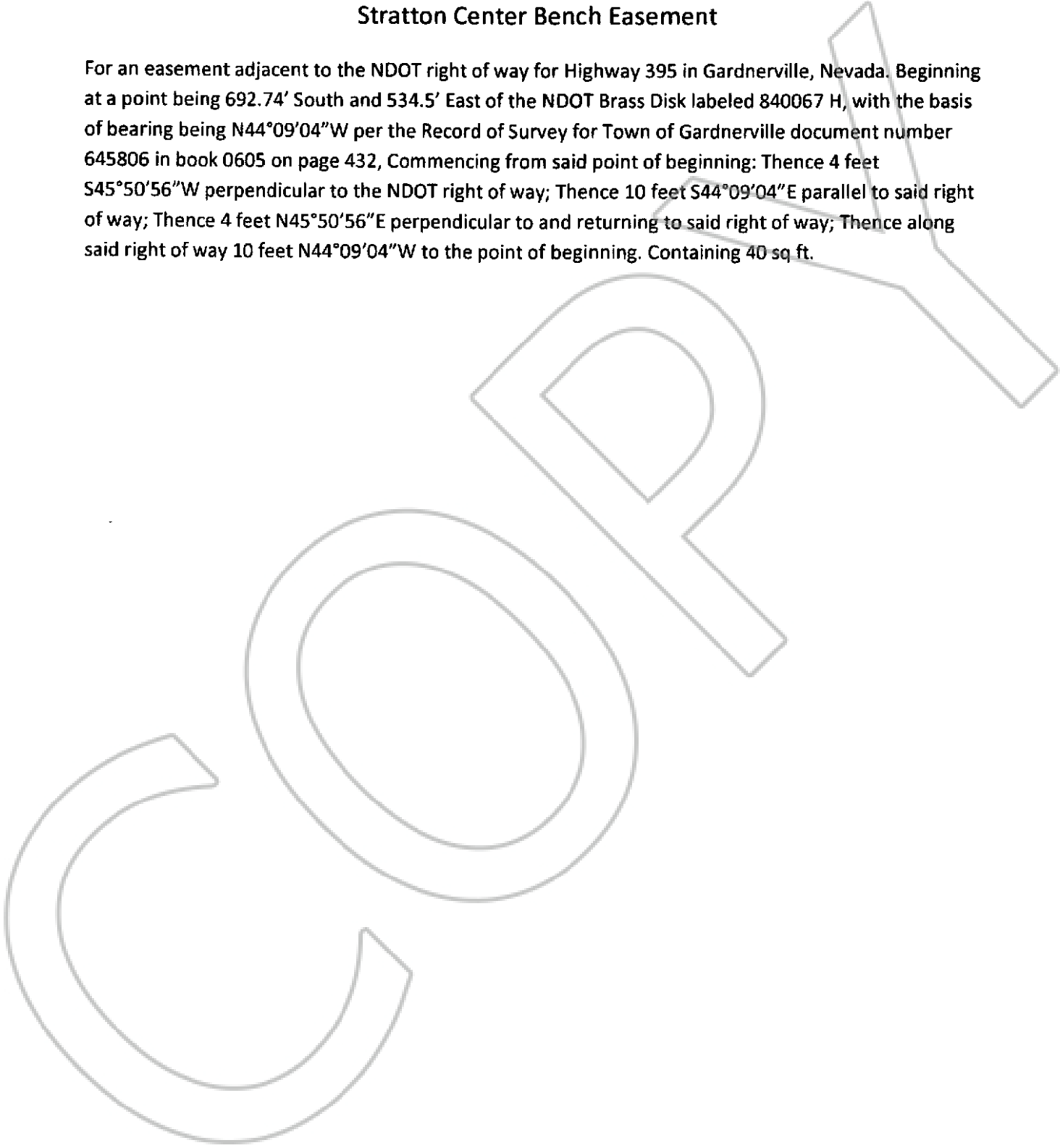


TOWN OF GARDNERVILLE - DOC# 645806 - SEC 4 T12N R20E & SEC 32-33 T13N R20E

Exhibit "B"

Stratton Center Bench Easement

For an easement adjacent to the NDOT right of way for Highway 395 in Gardnerville, Nevada. Beginning at a point being 692.74' South and 534.5' East of the NDOT Brass Disk labeled 840067 H, with the basis of bearing being N44°09'04"W per the Record of Survey for Town of Gardnerville document number 645806 in book 0605 on page 432, Commencing from said point of beginning: Thence 4 feet S45°50'56"W perpendicular to the NDOT right of way; Thence 10 feet S44°09'04"E parallel to said right of way; Thence 4 feet N45°50'56"E perpendicular to and returning to said right of way; Thence along said right of way 10 feet N44°09'04"W to the point of beginning. Containing 40 sq ft.

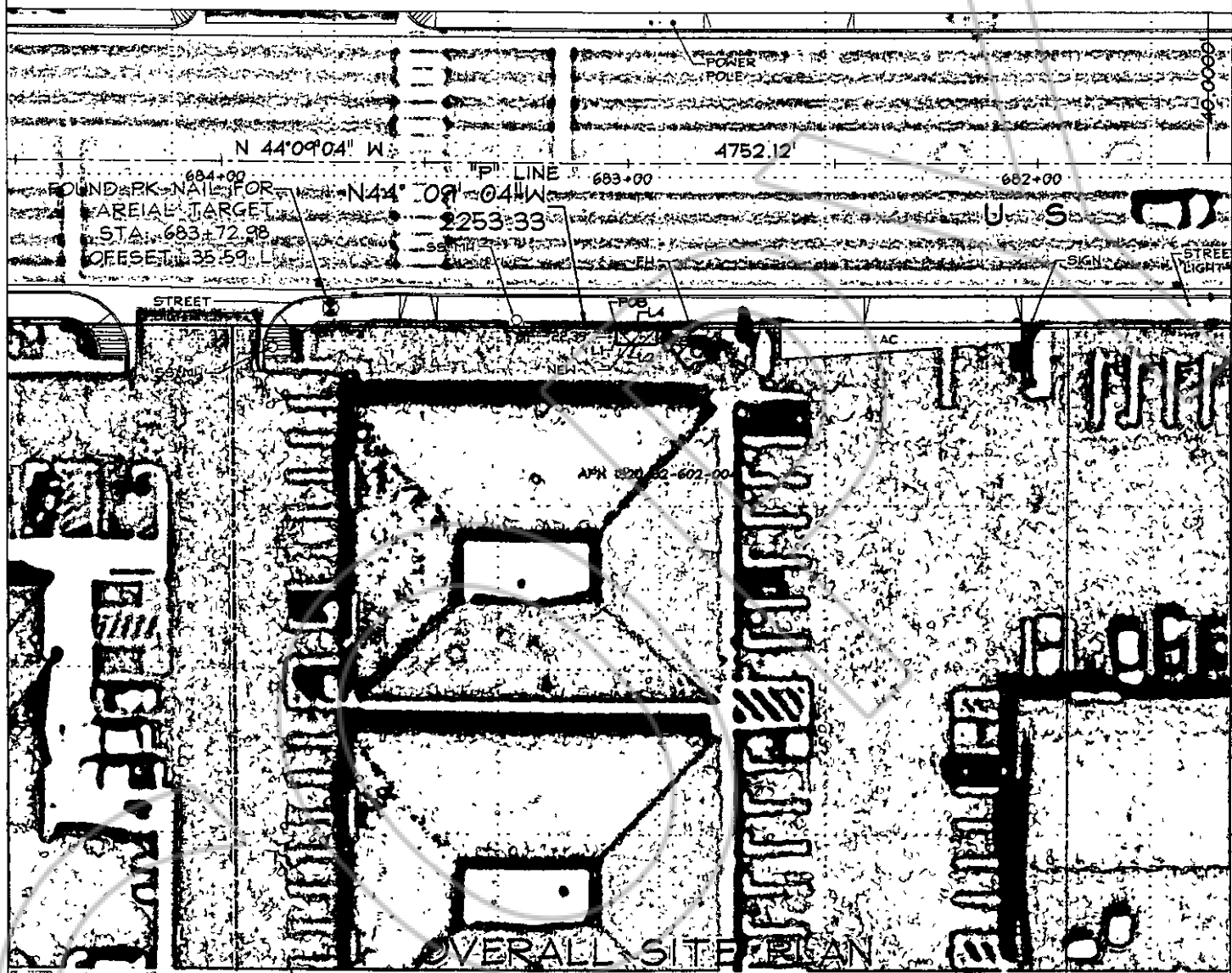




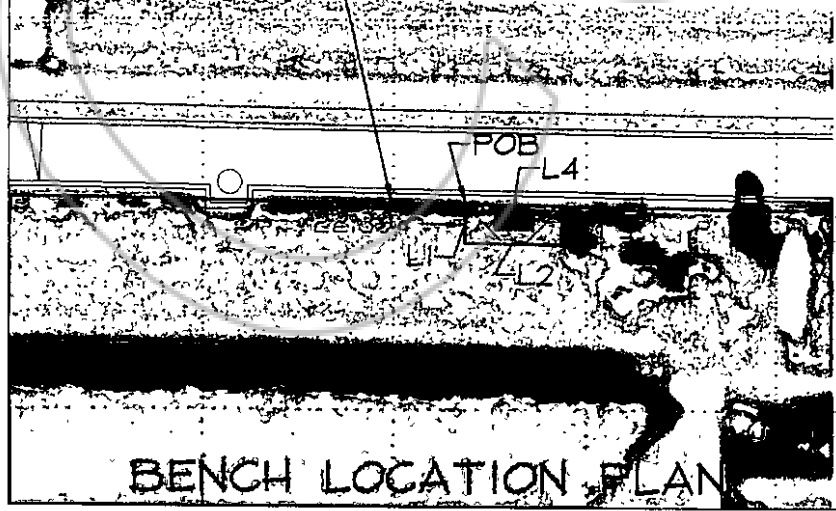
1407 Highway 395 N  
Gardnerville NV 89410  
P: 775.782.7134  
F: 775.782.7135  
www.gardnerville-nv.gov

DATE: 10-20-2011  
PAGE: 1 OF 1 PAGES  
PROJECT No.:

# Project: EXHIBIT 'C' STRATTON CENTER



OVERALL SITE PLAN



BENCH LOCATION PLAN

Line Table		
Line #	Length	Bearing
L1	4.00	S45° 50' 56"W
L2	10.00	S44° 09' 04"E
L3	4.00	N45° 50' 56"E
L4	10.00	N44° 09' 04"W