

Assessor's Parcel Number: 1320-29-402-003

Date: DECEMBER 8, 2016

Recording Requested By:

Name: TRISH, TOWN OF MINDEN

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A



00047561201608918380190191

KAREN ELLISON, RECORDER

**AGREEMENT TO PROVIDE WATER SERVICE**

**#2016.270**

(Title of Document)

**AGREEMENT  
TO PROVIDE WATER SERVICE**

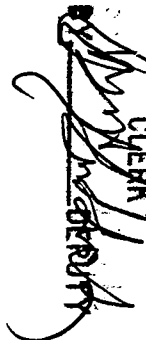
This Agreement to Provide Water Service ("Agreement") is entered into as of the 4<sup>th</sup> day of May 2016, by and between Bently Enterprises, LLC, a Nevada Limited Liability Company, (hereafter "Applicant"); and the Town of Minden, an unincorporated town and political subdivision of the State of Nevada ("Provider").

RECITALS:

1. Applicant is the owner of certain real property located in the Town of Minden, Douglas County, Nevada, being Assessor's Parcel Number 1320-29-402-003, commonly referred to as 1613 Water Street, Minden, Nevada ("the Property").
2. Applicant intends to develop the Property for various commercial and/or industrial uses, including specifically the development of a distillery (the "Development").
3. Provider is the owner of certain real/personal property ("Well Property") commonly referred to as Well No. 1, and associated assets, as depicted in Exhibit A to this Agreement. Provider shall retain ownership of the Well Property.
4. The Well Property is accessed by Provider's interest in two Easements described in Exhibit B to this Agreement. Provider shall continue to hold and enjoy the benefit of the two Easements described in Exhibit B to this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual obligations set forth below, the parties hereto agree as follows:

1. Application for Service. Applicant shall apply to Provider for water service for the Development in compliance with Douglas County Code ("DCC") Section 18.04.120(B), as may be amended from time to time.

  
DOUGLAS COUNTY  
CLERK  
NOV 2016 272  
21 DEC -8 PM 2:30  
FILED

2. Agreement to Provide Service. Subject to Applicant's compliance with the terms of this Agreement and the mandates of DCC 18.04.120, Provider agrees to provide water service to the Development, specifically from Well No. 1, so long as that well is reasonably serviceable, as determined by the Town's engineer.

3. Water Service. Water service will be provided to Applicant pursuant to and in accordance with DCC 18.04.120 then in effect and as said regulations may be amended from time to time. Water service will be for limited, exclusive use by the Applicant for a distillery and directly related process uses. Water service will not extend to domestic, fire, irrigation, or other needs of the Applicant which will be met by the Provider from its retail water system.

4. Water Rates and Payment. The water rates to be charged and paid for the delivery of water to Applicant shall be the rate for commercial water service as adopted by the Minden Town Board and as may be amended from time to time, plus the cost associated with the pump and motor for the Well Property and any repair and/or replacement costs for the pump, motor, electrical services facilities, telemetry, and meter. Payments shall be made by Applicant for water service in conformance with DCC 18.04.120 then in effect and as said regulations may be amended from time to time.

5. Operation and Maintenance.

A. Provider shall be responsible for operating, maintaining, and repairing the Well Property.

B. Applicant shall have the right and ability to construct and own a building or well house to enclose the Well Property. No such construction, building, or well house, shall interfere with the Exhibit B Easements, or with Provider's ability to operate, maintain, and repair

the Well Property. Applicant shall be responsible for constructing, maintaining, and repairing any such construction, building or well house.

C. Provider and its staff shall have sole, exclusive access to the Well Property, and thus to any construction, building, or mutually agreeable, secure portion of any well house erected on the Property by Applicant. Provider shall have ready, unimpeded access to the Well Property.

D. Applicant shall provide security for the Well Property along with any construction, building or well house it erects. Applicant may further provide backup power for the Well Property.

E. Applicant shall buffer the pressure from the Well Property and provide its own storage and distillery operational needs in coordination with any recommendation or oversight by the Town of Minden's Engineer.

6. Termination. Provider shall have the ability to terminate this Agreement without effect on the Easements attached hereto at anytime in compliance with DCC 18.04.120 then in effect and as said regulations may be amended from time to time. Additional grounds for termination include, without limitation, the following:

A. Breach by Applicant or Provider of any provision of this Agreement.

B. A determination by the Town of Minden's Engineer that the Well Property is no longer serviceable.

C. Performance of any act required to be performed by this Agreement (except for payments due hereunder) is prevented or delayed by reason of any cause not the fault of the party required to perform the act (including acts of God, inability to secure materials, governmental laws or regulations, judicial order, epidemic, explosion, landslide, subsidence,

earthquake, fire, source contamination weather perils, breakage or accident to equipment or machinery, and partial or total failure of utilities). In the limited situation set forth in this paragraph 6(C) the Applicant may apply to the Provider to connect to the Provider's retail water system with no connection charge.

7. Indemnification. Applicant hereby indemnifies and holds harmless Provider from any and all damages, claims, actions or causes of action brought in court or by regulatory agencies, liens or liabilities whatsoever arising from: (i) any work performed, or accident or injury, or any other matter whatsoever arising out of the construction, installation, operation, maintenance or repair of any building or well house on the Property, including any issues related to environmental issues, caused to any person, firm, corporation or other entity, in, on or near the Property; or (ii) the Property or the operations in connection therewith or arising out of the construction, operation, or maintenance thereof. The indemnification herein provided shall include, without limitation, all costs, attorneys' fees, engineering fees, accounting fees or any other similar expenses and liabilities incurred in connection with any such damage, claims, liens or liabilities or any action or proceeding brought thereon.

8. Agency. The parties specifically acknowledge that no party is acting as the agent of any other party in any respect, and that each party is an independent entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between Provider and the Applicant in their businesses, operations, affairs or otherwise; nor shall it cause them to be considered joint venturers or members of any joint enterprise.

9. Miscellaneous.

9.1. Attorney's Fees. If legal action or any arbitration or other proceeding is

brought arising out of or relating to this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs, including arbitration fees and costs, consulting and witness fees and expert fees, incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

9.2 Time. Time is of the essence of this Agreement. All modifications and extensions shall be in writing and signed by all parties.

9.3. Entire Agreement. This Agreement sets forth all the promises, agreements, conditions, understandings, warranties and representations between the parties hereto, with respect to the matters set forth herein, and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, express or implied, between the parties hereto with respect to such matters, except as set forth herein. This Agreement is, and is intended by the parties to be, an integration of any and all prior agreements or understandings, oral or written, with respect to the transactions set forth herein.

9.4 Construction of the Agreement. The parties hereby acknowledge having the opportunity to be represented by Counsel of their choice with respect to the preparation, negotiation and execution of this Agreement and each party hereby agrees that the doctrine construing contractual terms against the drafting party shall not apply to this Agreement.

9.5 Notices. All notices or other documents under this Agreement shall be in writing and delivered personally or mailed by registered or certified mail, return receipt requested, addressed as follows:

**Provider**  
Town of Minden  
1604 Esmeralda Avenue  
Minden, NV 89423

**Applicant**  
Bently Enterprises  
1597 Esmeralda Avenue  
Minden, NV 89423

9.6 Changes and Waiver. No change or modification of this Agreement shall

be valid unless it is contained in a writing signed by the parties hereto. No waiver of any provision of this Agreement shall be valid unless contained in a writing signed by the person or entity against whom it is sought to be enforced. The failure of any party at any time to insist upon strict performance of any condition, promise, agreement, or understanding set forth herein shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same or any other condition, promise, agreement or understanding at a future time.

9.7 Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

9.8 Governing Law/Dispute Resolution. This Agreement shall be construed in accordance with and governed by the laws of the State of Nevada. Applicant and Provider hereby acknowledge and agree to submit any dispute hereunder to binding arbitration pursuant to the Nevada Rules of Arbitration, and that any arbitration actions or disputes arising from or relating, in any way, to this Agreement or the Property shall be in Douglas County, Nevada, and Applicant and Provider hereby irrevocably consent to the same.

9.9 Third Parties. This Agreement is not intended, nor shall it be construed, to create any third party beneficiary rights in any person or entity that is not a party to the Agreement.

9.10 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns.

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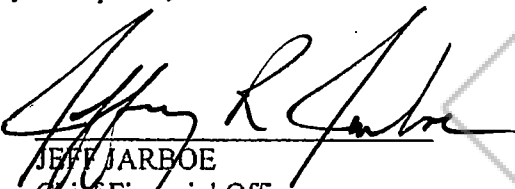
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9.11 Amendment. The Parties may amend this Agreement only by a written agreement signed by each Party to be bound by the amendment and that identifies itself as an amendment to this Agreement.

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

Applicant:

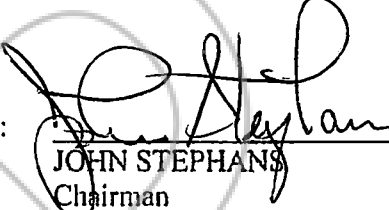
Bently Enterprises, LLC

By:   
JEFF JARBOE  
Chief Financial Officer

By:   
Brady Frey  
Chief Operations Officer

Provider:

Town of Minden

By:   
JOHN STEPHANS  
Chairman



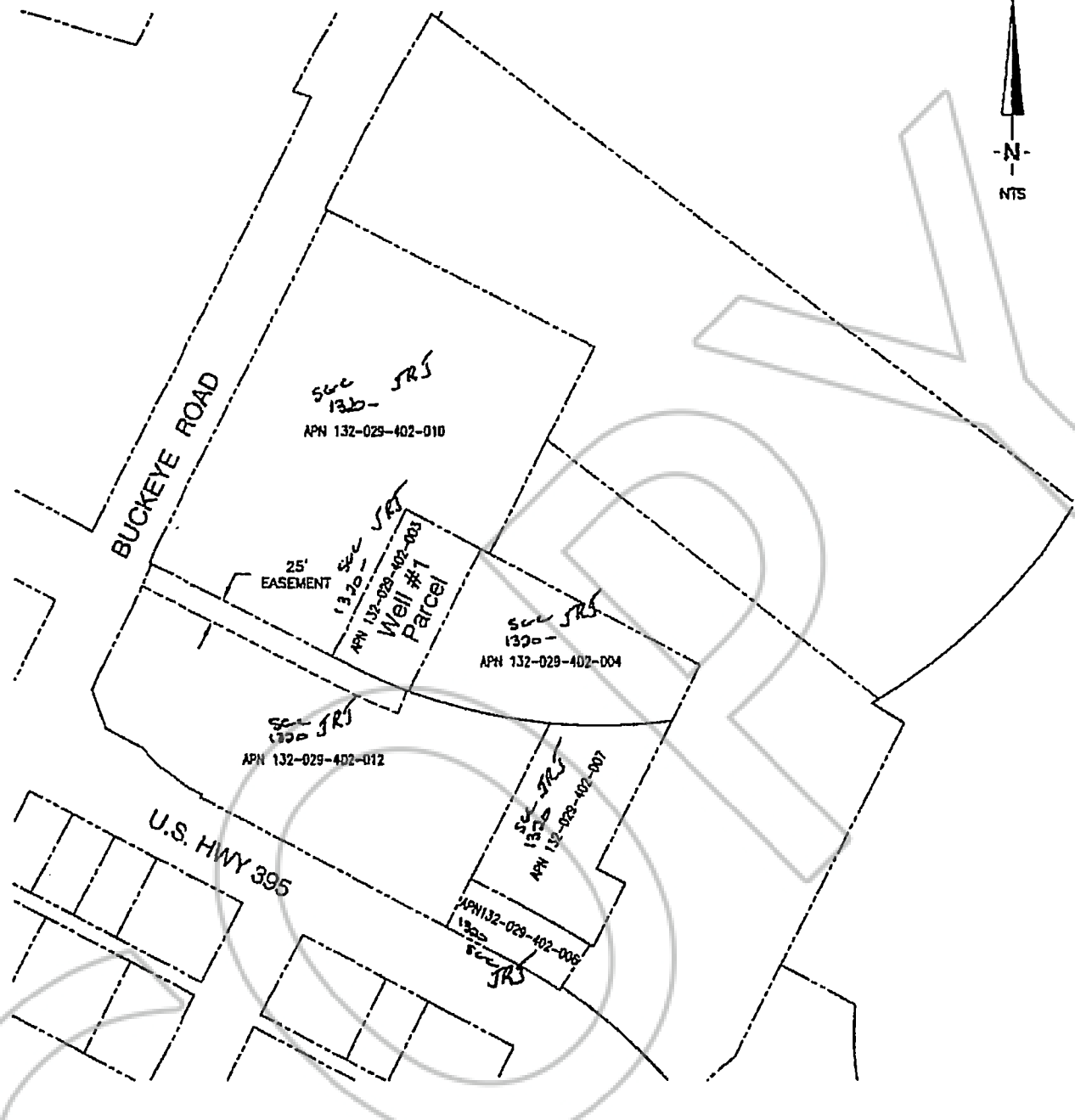


EXHIBIT A  
Bently Enterprises LLC to Town of Minden  
Easement to Well #1 Parcel

Oct. 1, 2014



COPY

**EXHIBIT B**

APNs: 1320-29-402-012  
1330-29-402-003

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

RYAN D. RUSSELL, ESQ.  
ALLISON, MacKENZIE,  
PAVLAKIS, WRIGHT & FAGAN, LTD.  
402 North Division Street  
P.O. Box 646  
Carson City, NV 89702

The parties executing this document  
hereby affirm that this document  
submitted for recording does not contain  
the social security number of any  
person or persons pursuant  
to NRS 239B.030

EASEMENT

THIS EASEMENT is made effective as of this \_\_\_\_ day of \_\_\_\_\_,  
2014, by, Bently Enterprises, LLC, a Nevada Limited Liability Company, (hereinafter referred to  
as "GRANTOR") and the Town of Minden, an unincorporated town and a political subdivision  
of the State of Nevada, (hereinafter referred to as "GRANTEE");

WITNESSETH:

WHEREAS, GRANTOR owns real property in Douglas County, Nevada  
commonly identified as Douglas County Assessor's Parcel Nos. 1320-29-402-003 and 1320-29-  
402-012 (collectively "the Property"), and,

WHEREAS, GRANTOR has agreed to grant GRANTEE an easement over and  
across the Property for the purposes of owning, operating, maintaining, and otherwise utilizing,

the well located on Douglas County Assessor's Parcel No. 1320-29-402-003 and owned by GRANTEE which is designated Well #1 as part of GRANTEE's water system;

NOW, THEREFORE, in consideration of the above-referenced recitals and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

GRANTOR hereby grants, bargains and sells unto the undersigned GRANTEE, and to its respective successors and assigns, a perpetual easement for the ownership, operation, maintenance, utilization, inspection, access and repair of the well located on Douglas County Assessor's Parcel No. 1320-29-402-003 and owned by GRANTEE which is designated Well #1 as part of GRANTEE's water system, extending twenty-five feet wide along the northern boundary line of Douglas County Assessor's Parcel No. 1320-29-402-012, to Well #1 as depicted on the map attached hereto as Exhibit "A" and incorporated herein by this reference.

This Easement, including any exhibits incorporated herein by reference, sets forth all (and is intended by the parties to be an integration of all) of the representations, promises, agreements, and understandings among the parties hereto with respect to the rights, privileges and obligations of the parties. There are no representations, promises, agreements, or understandings, oral or written, express or implied, among the parties other than as set forth or incorporated herein.

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IN WITNESS WHEREOF, GRANTOR has executed this Easement on the date  
and year first above written.

Bently Enterprises, LLC

Bently Enterprises, LLC

By:

*Jeff Jarboe*  
JEFF JARBOE  
Chief Financial Officer

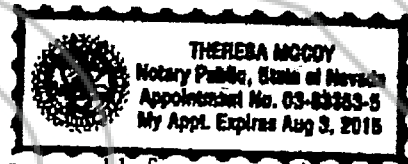
By:

*Susan Carbiener*  
SUSAN CARBIENER  
Vice President

STATE OF NEVADA )

: ss.

COUNTY OF *Douglas* )



On December 15, 2014, personally appeared before me, a notary public, SUSAN CARBIENER, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that she is the Vice President of Bently Enterprises, LLC and who further acknowledged to me that she executed the foregoing Easement on behalf of said trust.

*Theresa McCoy*  
NOTARY PUBLIC

STATE OF NEVADA )

: ss.

COUNTY OF *Douglas* )



On December 15, 2014, personally appeared before me, a notary public, JEFF JARBOE, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that he is the Chief Financial Officer of Bently Enterprises, LLC and who further acknowledged to me that he executed the foregoing Easement on behalf of said trust.

*Theresa McCoy*  
NOTARY PUBLIC

APN: 1320-29-402-010

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

RYAN D. RUSSELL, ESQ.  
ALLISON, MacKENZIE,  
PAVLAKIS, WRIGHT & FAGAN, LTD.  
402 North Division Street  
P.O. Box 646  
Carson City, NV 89702

The parties executing this document  
hereby affirm that this document  
submitted for recording does not contain  
the social security number of any  
person or persons pursuant  
to NRS 239B.030

EASEMENT

THIS EASEMENT is made effective as of this \_\_\_\_ day of \_\_\_\_\_,  
2014, by, Bently Enterprises, LLC, a Nevada Limited Liability Company, (hereinafter referred to  
as "GRANTOR") and the Town of Minden, an unincorporated town and a political subdivision  
of the State of Nevada, (hereinafter referred to as "GRANTEE");

WITNESSETH:

WHEREAS, GRANTOR owns real property in Douglas County, Nevada  
commonly identified as Douglas County Assessor's Parcel No. 1320-29-402-010, and

WHEREAS, GRANTOR has agreed to grant GRANTEE an easement over and  
across the Douglas County Assessor's Parcel No. 1320-29-402-010 for the purposes of placing,  
owning, operating, maintaining, and otherwise utilizing, a well thereon to be owned by  
GRANTEE which shall be designated Well #11 as part of GRANTEE's water system;

the well located on Douglas County Assessor's Parcel No. 1320-29-402-003 and owned by GRANTEE which is designated Well #1 as part of GRANTEE's water system;

NOW, THEREFORE, in consideration of the above-referenced recitals and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

GRANTOR hereby grants, bargains and sells unto the undersigned GRANTEE, and to its respective successors and assigns, a perpetual easement for the ownership, operation, maintenance, utilization, inspection, access and repair of the well located on Douglas County Assessor's Parcel No. 1320-29-402-010 and owned by GRANTEE which is designated Well #1 as part of GRANTEE's water system, extending twenty-five feet wide along the northern boundary line of Douglas County Assessor's Parcel No. 1320-29-402-012, to Well #1 as depicted on the map attached hereto as Exhibit "A" and incorporated herein by this reference.

This Easement, including any exhibits incorporated herein by reference, sets forth all (and is intended by the parties to be an integration of all) of the representations, promises, agreements, and understandings among the parties hereto with respect to the rights, privileges and obligations of the parties. There are no representations, promises, agreements, or understandings, oral or written, express or implied, among the parties other than as set forth or incorporated herein.

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IN WITNESS WHEREOF, GRANTOR has executed this Easement on the date

and year first above written.

Bently Enterprises, LLC

Bently Enterprises, LLC

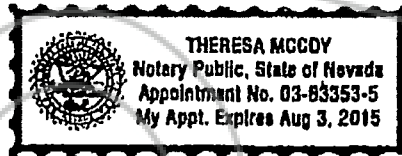
By: *Jeff Jarboe*  
JEFF JARBOE  
Chief Financial Officer

By: *Susan Carbiener*  
SUSAN CARBIENER  
Vice President

STATE OF NEVADA )

: ss.

COUNTY OF Douglas )



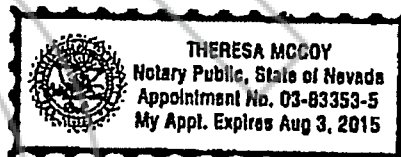
On December 15, 2014, personally appeared before me, a notary public, SUSAN CARBIENER, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that she is the Vice President of Bently Enterprises, LLC and who further acknowledged to me that she executed the foregoing Easement on behalf of said trust.

*Theresa McCoy*  
NOTARY PUBLIC

STATE OF NEVADA )

: ss.

COUNTY OF Douglas )



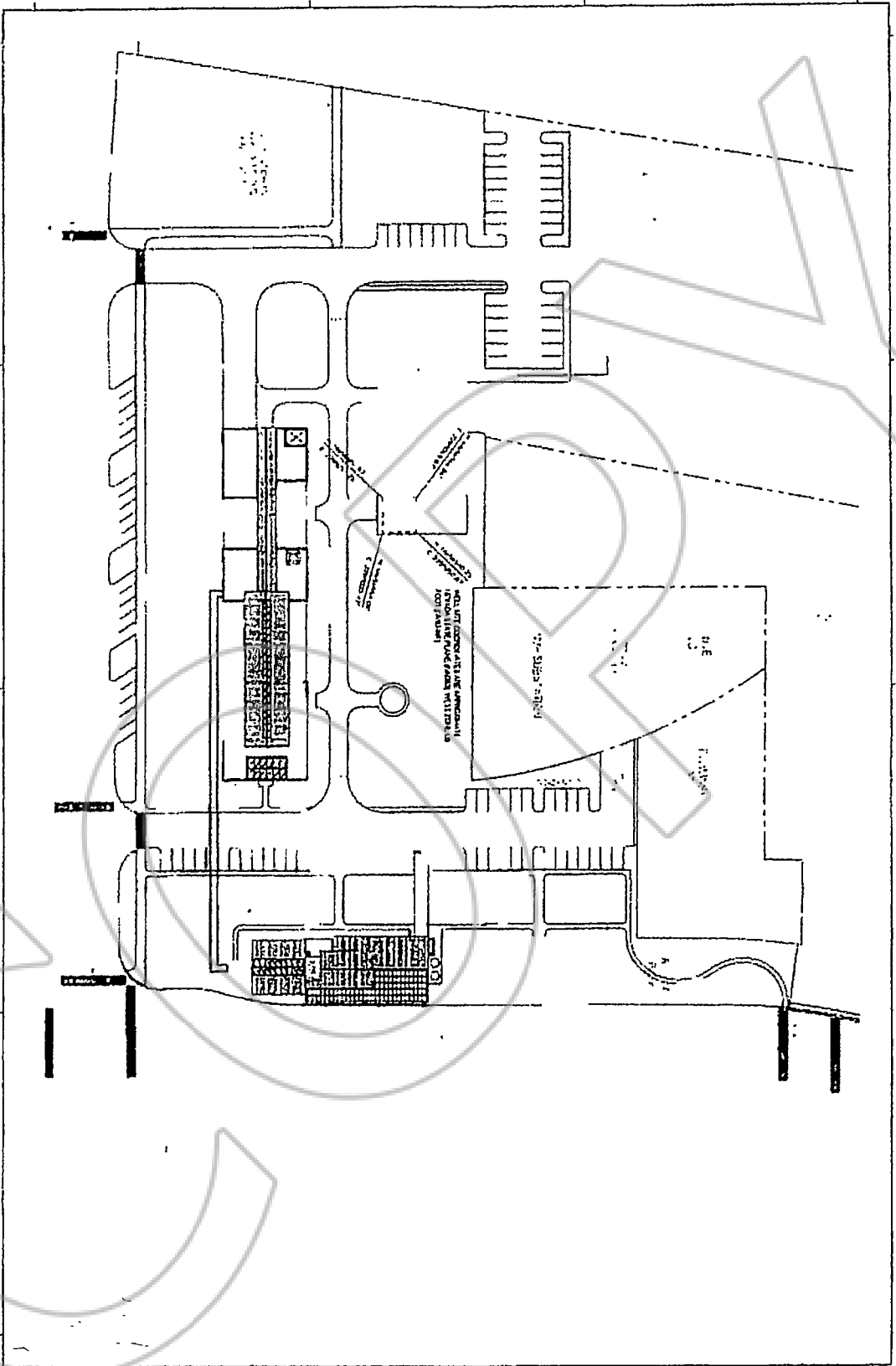
On December 15, 2014, personally appeared before me, a notary public, JEFF JARBOE, personally known (or proved) to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that he is the Chief Financial Officer of Bently Enterprises, LLC and who further acknowledged to me that he executed the foregoing Easement on behalf of said trust.

*Theresa McCoy*  
NOTARY PUBLIC



EXHIBIT "A"  
("Easement Map")

COPY



DATE: 05/11/2014  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

PROJECT: [Project Name]

SCALE: 1/8" = 1'-0"

NO. 100

DATE: 05/11/2014

PROJECT: [Project Name]

SCALE: 1/8" = 1'-0"

NO. 100

DATE: 05/11/2014

PROJECT: [Project Name]

SCALE: 1/8" = 1'-0"

NO. 100

DATE: 05/11/2014

PROJECT: [Project Name]

SCALE: 1/8" = 1'-0"

NO. 100

AN.00

COPY

Douglas County

State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

8th day of April, 2016

By [Signature] Deputy