

Assessor's Parcel Number: 1320-29-402-010

Date: DECEMBER 8, 2016

Recording Requested By:

Name: TRISH, TOWN OF MINDEN

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

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

Real Property Transfer Tax: \$ N/A



KAREN ELLISON, RECORDER

AGREEMENT #2016-271  
(Title of Document)

FILED

NO. 2016-277

31 DEC -8 PM 2:31

AGREEMENT

This Agreement (the "Agreement") is entered into as of the 31<sup>st</sup> day of August 2016, by and between Bently Enterprises, LLC, a Nevada Limited Liability Company, (hereafter "Bently"); and Town of Minden, an unincorporated town and a political subdivision of the State of Nevada, (hereafter "Town"), with regard to the improvement of certain real property located in Douglas County, Nevada.

DOUGLAS COUNTY CLERK

DEPUTY  
*[Signature]*

RECITALS

A. Bently owns that certain real property being Assessor's Parcel Number 1320-29-402-010 (hereafter "the Property");

B. The Town is benefited, and the Property is burdened, by an Easement on the Property pursuant to an Easement between Bently as Grantor and the Town as Grantee, recorded with the office of the Douglas County Recorder on December 23, 2014 as Document No. 2014-854858 (hereafter "the Easement"); and

C. The Parties desire to enter this Agreement to memorialize the terms by which Bently will construct real property improvements to the Property, including specifically without limitation a Well House as discussed below, and the Town will install either sufficient water mains on the Property to tie it into the Town's existing water mains, and thus allow the Property to be served by the Town's water system, or water infrastructure on Well #1;

IN CONSIDERATION OF THE FOREGOING and mutual promises set forth herein, Buyer and Seller, intending to be legally bound, hereby agree as follows:

1. Agreement to Construct Well House. A copy of the Easement is attached hereto as Exhibit "A" and incorporated herein by this reference. In furtherance thereof, the Town has utilized the Easement to place, own, operate, maintain, and otherwise utilize, a well on the Property, owned by the Town which is designated Well #11 as part of the Town's water system. Bently shall construct and own a building or well house to enclose the Well #11 ("Well House"). No such construction, building, or well house, shall unreasonably interfere with the Exhibit A Easement, or with the Town's ability to operate, maintain, and repair Well #11. Bently shall exercise and enjoy sole discretion on the construction, maintenance, and repair of the Well House. Notwithstanding the foregoing, should any repair to the Well House be required due to damage caused by the Town, the Town shall repair any such damage at its sole cost and expense, with such repairs subject to the reasonable approval of Bently.

2. Agreement to Install Water Infrastructure Improvements. In consideration of Bently's agreement to construct the Well House, as set forth above, the Town agrees to, in good faith and with its best efforts, install either sufficient water mains on the Property to tie it into the Town's existing water mains, and thus allow Bently, and any subsequent owner of the Property, to apply to the Town for water service in compliance with Douglas County Code ("DCC") Section 18.04.120(B), as may be amended from time to time, or water infrastructure on Well #1 in furtherance of the Utility Service Agreement between the parties therefor, at the Town's

expense, not to exceed the reasonable value of the Well House and the budget for the project previously approved by the Minden Town Board. The selection of the Town's obligation pursuant to the options above shall be made solely in the Town's discretion.

3. **Operation and Maintenance.** Bently shall provide security during the construction discussed above, and will secure the Well House once construction is completed. Bently may further provide backup power for Well #11 and associated assets.

4. **Indemnification.** Bently hereby indemnifies and holds harmless the Town 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. The indemnification herein provided shall not include the Town's operation of its well and/or water system.

5. **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 the Town and Bently in their businesses, operations, affairs or otherwise; nor shall it cause them to be considered joint venturers or members of any joint enterprise.

6. **Miscellaneous.**

6.1. **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.

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

6.3. **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.

6.4. **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:

Town of Minden  
1604 Esmeralda Avenue  
Minden, NV 89423

Bently Enterprises  
1597 Esmeralda Avenue  
Minden, NV 89423

6.5. **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.

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

6.7. **Governing Law/Dispute Resolution.** This Agreement shall be construed in accordance with and governed by the laws of the State of Nevada. Bently and the Town 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 the Town and Bently hereby irrevocably consent to the same.

6.8. **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.

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

6.10. **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.

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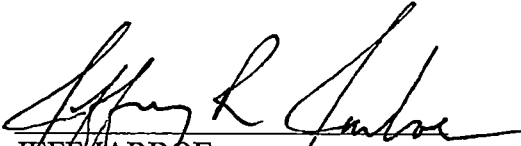
6.11. **Assignment.** This Agreement may only be assigned with the prior written consent of the non-assigning party.

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

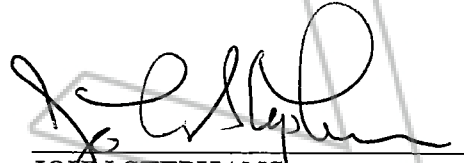
Bently Enterprises, LLC

Town of Minden

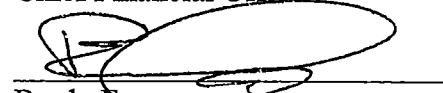
By:

  
JEFF JARBOE  
Chief Financial Officer

By:

  
JOHN STEPHANS  
Chairman

By:

  
Brady Frey  
Chief Operations Officer

APN: 1320-29-402-010

ESCROW NO. 068593-TEA  
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

00005643201408548580060068  
KAREN ELLISON, RECORDER

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 15th day of December, 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;

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 a well to be located on Douglas County Assessor's Parcel No. 1320-29-402-010 and to be owned by GRANTEE which shall be designated Well #11 as part of GRANTEE's water system. The location of said well, and the extent of this easement, shall be determined by the parties at the time GRANTEE provides GRANTOR written notice of its intent to construct Well #11. A map illustrating this easement is 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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LEGAL DESCRIPTION

PARCEL NO. 1.

Lots 1, 2, 3, 4 and the westerly 22 1/2 feet of Lot 5 in Block 2, all in the North Addition to Minden, according to the Official Map thereof on file in the Office of the County Recorder of Douglas County, Nevada. Together with the South 1/2 of the unnamed street lying between Block 2 and Block 4 in said North Addition; lying adjacent to the North line of said Lots 1, 2, 3, 4 and the westerly 22 1/2 feet of Lot 5 in said Block 2 as the same was abandoned by Resolution recorded October 21, 1969 in Book 70, Page 592 as File No. 46076, Official Records.

PARCEL NO. 2

Lots 1, 2 and 3 in Block 4, all in the North Addition to Minden, according to the Official Map thereof on file in the Office of the County Recorder of Douglas County, Nevada.

Also a parcel of land adjacent to said lots on the East as described as follows:

Beginning at the northeast corner of Block 4 of the North Addition to the Town of Minden and running South 63°25' East a distance of 220 feet, more or less, to a point which would intersect the westerly line of Lot 1 in Block 3 of said North Addition, protracted northerly; thence South 26°35' West along said line a distance of 170 feet, more or less, to a point which would intersect the southerly line of Block 4 of said North Addition to Minden, if protracted Easterly; thence North 63°25' West along said line a distance of 170 feet, more or less, to the southeast corner of said Block 4; thence North 9°29' East along the easterly line of said Block 4 a distance of 177.86 feet to the point of beginning.

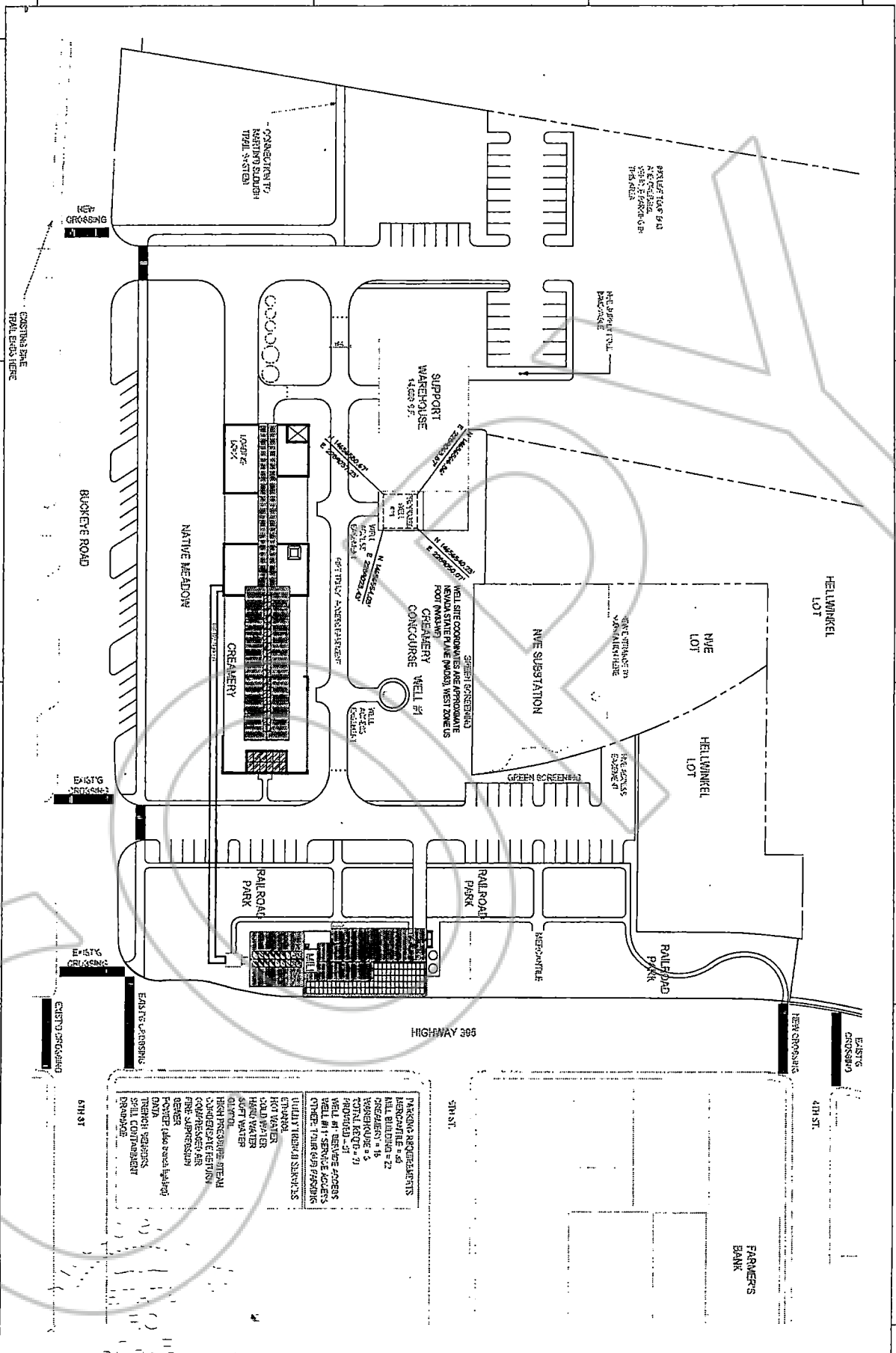
Together with the North 1/2 of the unnamed street lying between Blocks 2 and 4 and the easterly extension thereof of Block 4 in said North Addition, lying adjacent to the South line of the above described parcel lying easterly of said Block 4, as the same was abandoned by Resolution recorded October 21, 1969 in Book 70, Page 592, as File No. 46076, Official Records.

APN NO: 1320-29-402-010

*(Per NRS 111.312, this legal description was previously recorded in the Official Records of Douglas County, Nevada, on 13 November 1969, as Document No. 46318, at Book 71, Pages 377-379.)*

EXHIBIT "A"  
("Easement Map")

COPY



**PERKINS & WILSON ARCHITECTS**  
 ARCHITECTS  
 1000 N. 1ST ST. SUITE 200  
 DENVER, CO 80202  
 TEL: 303.733.1000  
 WWW.P&WARCHITECTS.COM

<p>DATE: 08.11.2014 100% SCHEMATIC DESIGN</p> <p>NOT FOR CONSTRUCTION</p>	<p>OWNER: BENTLY HERITAGE DISTILLERY</p> <p>1699 US HIGHWAY 595        ANDERSON, WY 82402</p>	<p>PROJECT: BENTLY HERITAGE DISTILLERY</p> <p>SCALE: AS SHOWN</p>	<p>DESIGNER: PERKINS &amp; WILSON</p> <p>DATE: 08.11.2014</p>
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A1.00

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 June, 2016

By [Signature] Deputy