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KAREN ELLISON, RECORDER

Assessor's Parcel Number: N/A

Date: AUGUST 2, 2019

Recording Requested By:

Name: HEATHER MACDONNELL, PUBLIC WORKS

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

CONTRACT #2019.140

(Title of Document)

AGREEMENT FOR WATER SERVICE

AN AGREEMENT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

W.R. TECHNOLOGY PARK, LLC

FILED
NO. 2019.140
8-2-19
DATE
DOUGLAS COUNTY CLERK
MINDEN, NV
BY [Signature] DEPUTY

This Agreement for Water Service (the "Agreement") is entered into by and between Douglas County, a political subdivision of the State of Nevada (the "County"), and W.R. Technology Park, LLC, a Nevada Limited-Liability Company (the "Customer"). The County and Customer are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WHEREAS, Customer owns and operates a public water system within Douglas County Nevada: Williams Ridge Tech Park Public Water System (NV0000816); and

WHEREAS, Customer is in the process of developing commercial facilities within the service boundaries of its public water system; and

WHEREAS, Customer's has not yet improved its public water system to meet the minimum fire flow storage capacity requirements for its new commercial facilities; and

WHEREAS, Customer's facilities are within the service boundaries of the Douglas County Water Utility; and

WHEREAS, Customer has requested that the Douglas County Water Utility temporarily augment its own public water system by placing two emergency-use fire hydrants within its service area; and

WHEREAS, County has preexisting water system infrastructure in the vicinity of the proposed fire hydrant locations; and

WHEREAS, County has determined that it would be advantageous to provide the supplemental emergency-use water service as set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein made, the County and Customer mutually agree as follows:

1. **RECITALS.** The Parties agree that the foregoing Recitals are true and correct.
2. **DEFINITIONS.** Except as otherwise stated herein, the terms and phrases herein shall have the meanings ascribed to them in the Douglas County Code.

3. TERM AND EFFECTIVE DATE OF AGREEMENT. The Agreement will become effective on the date it is approved and signed by representatives of both Parties (“Effective Date”). Unless earlier terminated in accordance with the terms herein, the term of this Agreement shall be five years and the Agreement will expire on the fifth anniversary of the Effective Date. The Agreement may be renewed on the same terms and conditions upon written agreement by the Parties.

4. SERVICE CONNECTION. The County will provide water supply for two (2) private fire service connections that will be used exclusively for fire hydrants at APN 1220-11-001-071, at 1101 Mark Circle, Gardnerville, Nevada 89410, as follows:

- a. Each fire hydrant service line under this Agreement constitutes one 10” Commercial Private Fire Service Connection, without Domestic Service (“Connection”). Customer agrees and understands that the provisions of Douglas County Code, Title 20, Appendix F (DCC 20.F) apply to Customer and each Connection.
- b. The approximate locations of the Connections, associated infrastructure, and Points of Connection to the County’s water main are depicted in Exhibit A, hereto.
- c. The final locations of the Points Connection are subject to approval by the Director of Douglas County Public Works.
- d. Customer shall, at Customer’s sole cost and in accordance with Douglas County Code and the Douglas County Design Criteria, design, construct and install all water lines, curb stops or valves, hydrants and related appurtenances from the Points of Connection to the hydrants (collectively “Facilities”).
 - i. Customer will obtain all necessary approvals and permits, including prior approval or consent from the Nevada Division of Environmental Protection.
 - ii. Customer will comply with any applicable conditional approval from Douglas County Community Development.
- e. There shall be no cross connection between Customer’s water system and the County’s water system.
- f. As a precondition to receiving water service, Customer shall secure and grant to the County an access and maintenance Easement over and across the property upon which the water lines and hydrants are constructed. The Easement shall also permit the County to discharge water from the hydrants at reasonable times and intervals as necessary for maintenance.
- g. Water service is subject to the Facilities passing a final inspection by the County, whereupon:
 - i. County will own and maintain the portion of the Facilities that is upstream of the curb stops/valves (including the curb stop/valve). Every portion of the Facilities that is downstream of the curb stop/valve shall be the responsibility of the Customer.
 - ii. Customer will not make any further alterations to the County’s water main or to any portion of the Facilities that is upstream of the curb stop/valve.

- h. Customer agrees that the hydrants exist for the sole purpose of providing fire suppression water during an emergency. Unless otherwise authorized by the County in writing, no water may be used except for permitted testing purposes, or in the case of fire.
 - i. County makes no guarantee as to the quantity or pressure of water available for fire protection service.
 - j. Customer agrees and accepts that service provided under this Agreement is subject to any applicable provisions in the Douglas County Code and Douglas County Design Criteria, as they may be amended from time to time during the course of this Agreement.
5. **SECURITY DEPOSIT.** Customer shall pay to County a security deposit of \$1,680, which the County will apply as a credit to Customer's account. Customer shall ensure that the credit on Customer's account does not fall below \$1,680 at any time prior to the Expiration or Earlier Termination of this Agreement.
6. **PAYMENT FOR SERVICE.** Each Connection shall be billed as set forth in DCC 20.F, and the monthly rates are set by Resolution of the Douglas County Board of Commissioners (BOCC).¹
- a. Customer understands that County has the right to discontinue water service as set forth in DCC 20.F. Customer further acknowledges that a water shut off may result in a finding that any building served by the water connection is no longer safe for occupation. Buildings may be red-tagged or otherwise closed to entry.
7. **EARLY TERMINATION.** This Agreement may be terminated early as follows:
- a. The County may terminate this agreement for cause upon 90 days written notice to Customer if Customer fails to perform any obligation hereunder or if Customer engages in conduct that is prohibited under this Agreement or DCC 20.F.
 - b. Customer may terminate this agreement upon 90 days written notice to County of Customer's intent to terminate.
 - c. At any time after the initial five-year term, County may terminate this agreement without cause upon 90 days written notice to Customer of County's intent to terminate.

¹ As of the Effective Date, the applicable Rate Resolution is 2019R-032, and the BOCC may update the rate resolution from time to time throughout the course of this Agreement. For reference, and subject to change, Customer's monthly costs are projected as follows:

2019R-032: Private Fire Service Charges

Service Size: 10" w/o Commercial Service:	Monthly Cost (\$)/ Hydrant	Total Monthly Cost (\$)
FY 2019-2020	122.76	245.52
FY 2020-2021	130.13	260.25
FY 2021-2022	137.93	275.87
FY 2022-2023	146.21	292.42
FY 2023-2024	154.98	309.96

- 8. UPON TERMINATION OR EXPIRATION:** Upon Expiration or earlier Termination, the following provisions shall apply:
- a. On the effective termination date, County will shut off water service to the hydrants from the County's water main. The Customer shall and the Director may notify the Douglas County Building Department and East Fork Fire Protection District when water service is shut-off. If appropriate fire flows are not otherwise available, the shut-off may result in a finding that the buildings served by the hydrant(s) are no longer safe for occupation.
 - b. By no later than the effective termination date, Customer shall provide proof to the County that it has physically disconnected the hydrant and service line from the County's infrastructure at the curb stop/valve and re-secured the water main in accordance with the Douglas County Design Criteria (Customer shall obtain all necessary permits to complete the disconnection). If Customer fails to provide proof of disconnection by the effective Termination Date, then County may at its discretion perform the work to disconnect the Project and assess any incurred costs therefrom to Customer's account. Customer shall be responsible for the monthly service charges for each Connection until Customer has provided proof that the Project has been disconnected or until the County has itself disconnected the Project.
 - c. County may assess to Customer's account and pursue payment in any manner authorized by law (including in DCC 20.F.080), all rates, tolls, charges, late fees, or any cost incurred by County to disconnect the Facilities as set forth in subparagraph b, above.
- 9. CONSTRUCTION OF AGREEMENT.** The Agreement will be construed and interpreted according to the laws of the State of Nevada. There will be no presumption for or against the drafter in interpreting or enforcing the Agreement. In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve the dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Agreement before an independent mediator mutually agreed to by the parties. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion of the court.
- 10. COMPLIANCE WITH APPLICABLE LAWS.** Customer promises and agrees to fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of the Agreement.
- 11. ASSIGNMENT.** Customer shall not assign, transfer nor delegate any rights, obligations or duties under the Agreement.

- 12. MODIFICATION OF AGREEMENT.** The Agreement and the attached exhibit(s) constitute the entire agreement and understanding between the Parties and may only be modified by a written amendment signed by both of the Parties.
- 13. AUTHORITY.** The Parties represent and warrant that they have the authority to enter into this agreement.
- 14. THIRD PARTY BENEFICIARY.** Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either Customer or County.
- 15. FORCE MAJEURE.** Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to protests, strikes, legal impossibility, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, emergencies or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.
- 16. WAIVER.** The County's failure to insist upon Customer's performance of any obligation hereunder shall not constitute a waiver of the County's right to enforce that obligation and the County may require compliance with that obligation or any other obligation at any time.
- 17. NOTICES.** All notices, requests, demands and other communications hereunder must be in writing and will be deemed delivered when sent via certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

To County: Douglas County
Attn: Public Works Department
Post Office Box 218
Minden, Nevada 89423

To Customer: W.R. Technology Park, LLC
PO Box 1500
Gardnerville, NV 89410-1500

IN WITNESS WHEREOF, the Parties hereto have caused the Agreement to be signed and intend to be legally bound thereby.

W.R. Technology Park, LLC

By: David A. Williams
Name: DAVID A. WILLIAMS
Title: MANAGING MEMBER

July 29, 2019
(Date)

Douglas County

By: Philip L. Ritger
Name: PHILIP L. RITGER
Title: DIRECTOR PUBLIC WORKS

7-31-2019
(Date)

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

day of July, 2019
By: Debra J. Galt Deputy