

**Carson City Board of Supervisors  
Agenda Report**

**Date Submitted:** April 15, 2011

**Agenda Date Requested:** May 5, 2011

**Time Requested:** Consent

**To:** Mayor and Supervisors

**From:** Public Works

**Subject Title:** Action to approve an agreement for the City to purchase a permanent utility easement and temporary construction easement from property owners James H. Wheeler II and Mala J. Wheeler, to allow construction of public sanitary sewer and storm drain improvements across 4600 Conte Drive, APN 010-192-09, associated with the North/South Water Transmission Main Project – Phase 2. (Sharp)

**Staff Summary:** The City intends to construct public sanitary sewer and storm drain mains through the subject property in order to convey domestic sewage and stormwater runoff from Conte Drive to South Edmonds Drive. There are not currently sufficient available public rights of way or easements suitable for locating these gravity public utilities due to the existing topography. The owners will waive replacement of significant existing landscaping, irrigation and concrete slab improvements as a part of the financial consideration to be paid by the City as specified in the agreement.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

**Does This Action Require A Business Impact Statement:**  Yes  No

**Recommended Board Action:** I move to approve an agreement for the City to purchase a permanent utility easement and temporary construction easement from property owners James H. Wheeler II and Mala J. Wheeler, to allow construction of public sanitary sewer and storm drain improvements across 4600 Conte Drive, APN 010-192-09, associated with the North/South Water Transmission Main Project – Phase 2.

**Explanation for Recommended Board Action:** See staff summary above.

**Applicable Statute, Code, Policy, Rule or Regulation:** N/A.

**Fiscal Impact:** \$24,640.

**Explanation of Impact:** N/A

**Funding Source:** North/South Transmission Main water capital improvements fund.

**Alternatives:** None.

**Supporting Material:** Agreement; Exhibit A Utility Easement Deed And Temporary Easement; Exhibit A to Exhibit A legal description; Exhibit B to Exhibit A map.

**Prepared By:** Jeff Sharp, City Engineer



Reviewed By:   
(Public Works Director)

Date: 4-26-11

  
(City Manager)

Date: 4/26/11

  
(District Attorney)

Date: 4/26/11

Board Action Taken:

Motion: \_\_\_\_\_

- |          | Aye/Nay |
|----------|---------|
| 1) _____ | _____   |
| 2) _____ | _____   |
| 3) _____ | _____   |
| 4) _____ | _____   |
| 5) _____ | _____   |

\_\_\_\_\_  
(Vote Recorded By)

Ptn APN 010-192-09

AFTER RECORDING RETURN TO:  
JEFF SHARP  
CARSON CITY  
3505 BUTTI WAY  
CARSON CITY, NV 89701-3498  
APN 010-192-09

#### AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between JAMES H. WHEELER II and MALA J. WHEELER, husband and wife as joint, hereinafter called the OWNER, and CARSON CITY, NEVADA, A CONSOLIDATED MUNICIPALITY, hereinafter called the CITY,

#### WITNESSETH:

1. The OWNER, for and in consideration of the covenants and payments to be performed and paid as hereinafter provided agrees as follows:

- (a) To convey a permanent utility easement and temporary construction easement for the purpose of constructing a sewer line and storm drain and associated improvements upon over and across the subject property (APN 010-192-09) to the CITY, its assigns; said easement situate, lying and being in Carson City, State of Nevada, and more particularly described in EXHIBIT "A" attached hereto and made a part hereof.
- (b) To deliver to the CITY a utility easement and temporary easement for the property described in section 1 (a) of this Agreement.
- (c) To be responsible for said premises, including risk and liability for loss or damage including all repairs and/or maintenance to said premises until such date as OWNER has delivered the before mentioned deed to the CITY, or such date as OWNER has given physical possession of said premises to the CITY.
- (d) To permit the CITY or its authorized agents, assignees and contractors to enter in and upon OWNER's before mentioned lands, which are herein agreed to be conveyed for the purposes of inspection, land survey, environmental analysis and engineering upon execution of this agreement.

(e) To the fullest extent permitted by law, OWNER shall indemnify, hold harmless and defend, not excluding the CITY's right to participate, the CITY from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of OWNER, their officers, employees and/or agents arising out of performance of the AGREEMENT. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein. This Indemnification obligation is conditioned upon receipt of written notice by the indemnifying party within thirty (30) days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys fees and costs for the indemnified party's chosen right to participate with legal counsel.

2. The CITY, in consideration of the promises and covenants of the OWNER hereinabove set forth, agrees as follows:

(a) To pay the OWNER in the manner hereinafter provided the sum of **TWENTY-FOUR THOUSAND, SIX HUNDRED FORTY DOLLARS (\$24,640.00)**, which shall be the total purchase price for all said real property and property rights to be conveyed.

(b) To the fullest extent permitted by law, CITY shall indemnify, hold harmless and defend, not excluding the OWNER's right to participate, the OWNER from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of CITY, their officers, employees and/or agents arising out of performance of the AGREEMENT. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein. This Indemnification obligation is conditioned upon receipt of written notice by the indemnifying party within thirty (30) days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys fees and costs for the indemnified party's chosen right to participate with legal counsel.

3. It is mutually agreed and understood by the CITY and by the OWNER as follows:

(a) That CITY will install or cause to be installed, at CITY expense, a sanitary sewer lateral stub-out from the sanitary sewer main to the north edge of the permanent easement for OWNER's future use. OWNER to pay any and all costs associated with connecting to the sanitary sewer lateral stub-out including any applicable connection fees and installation costs.