

Item #6

**City of Carson City  
Agenda Report**

**Date Submitted:** November 7, 2006      **Agenda Date Requested:** November 16, 2006  
**Time Requested:** 10 Minutes

**To:** Mayor and Supervisors

**From:** Public Works Engineering

**Subject Title:** Action on a resolution declaring the public interest and necessity in the authorization of a lawsuit to exercise the power of eminent domain to an easement of approximately 372 square feet of land which is a portion of APN 09-191-11 and to an easement of approximately 657 square feet of land which is a portion of APN 09-287-02 Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur for the construction of a sanitary sewer line from the east side of South Carson Street in the abandoned Patrick Street alignment to the west side of South Carson Street and to authorize a stipulation to entry on to the land, and to authorize all other actions necessary to accomplish the taking.

**Staff Summary:** As a part of Phase 2 of the Carson City Freeway, this sewer extension was identified as the means to provide sanitary sewer service to the area generally described as south of Clearview Drive and West of Carson Street. The project was on the City's Capital Improvement list to be funded by the Sewer Fund. Because of the necessity to get the sewer line installed, protracted negotiations without the right of entry will delay the project.

**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 Resolution 2006-R-\_\_\_\_, a resolution declaring the public interest and necessity in the authorization of a lawsuit to exercise the power of eminent domain to an easement of approximately 372 square feet of land which is a portion of APN 09-191-11 and to an easement of approximately 657 square feet of land which is a portion of APN 09-287-02 Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur for the construction of a sanitary sewer line from the east side of South Carson Street in the abandoned Patrick Street alignment to the west side of South Carson Street and to authorize a stipulation to entry on to the land, and to authorize all other actions necessary to accomplish the taking.

**Explanation for Recommended Board Action:** Discussions have been held with the

property owner about the location and necessity of the project but we have not been able to come to a satisfactory conclusion. The property owners wish to identify additional comparable properties to determine value. Time is of the essence in that there have been septic tank failures in the area that this sewer line would serve.

Through contact with Ms. Maria Dufur, the city sent the property owners a written offer to purchase the easement for \$10,960.00. Discussions between staff and the property owners have not resulted in agreement. Eminent domain is therefore the last resort of the city to acquire the property.

**Applicable Statue, Code, Policy, Rule or Regulation:** Eminent Domain Procedures

**Fiscal Impact:** \$10,960.00

**Explanation of Impact:** N/A


**Funding Source:** Sewer Fund

**Alternatives:** Do not authorize the resolution.


**Supporting Material:** Condemnation Resolution.

**Prepared By:** Lawrence A Werner, P.E., P.L.S., City Engineer


**Reviewed By:**

  
(Public Works Director)

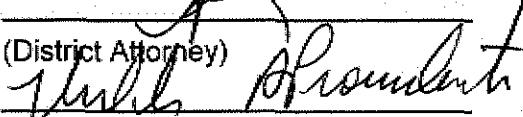
Date: 11/7/06

  
(City Manager)

Date: 11/7/06

  
(District Attorney)

Date: 11-7-06

  
(Finance Director)

Date: 11/7/06

**Board Action Taken:**

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

1) \_\_\_\_\_

Aye/Nay

2) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION DECLARING THE PUBLIC INTEREST AND NECESSITY IN THE AUTHORIZATION OF A LAWSUIT TO EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE AN EASEMENT TO APPROXIMATELY 375 SQUARE FEET OF LAND WHICH IS A PORTION OF APN 009-191-11 AND APPROXIMATELY 657 SQUARE FEET OF LAND WHICH IS A PORTION OF APN 009-287-02, OWNED BY MARIA DUFUR, JOE L. DUFUR, ALBERT DUFUR AND MICHAEL DUFUR, FOR THE CONSTRUCTION OF A SANITARY SEWER LINE AND TO AUTHORIZE A STIPULATION TO ENTRY ON TO THE LAND, AND TO AUTHORIZE ALL OTHER ACTIONS NECESSARY TO ACCOMPLISH THE TAKING.

WHEREAS, Carson City is authorized by Sec. 2.150 of the Carson City Charter to exercise the power of eminent domain over property within Carson City; and

WHEREAS, an existing sanitary sewer line terminates on the east side of South Carson Street; and

WHEREAS, construction of the Patrick Street Sewer line would provide public sewers to the west side of South Carson Street south of Overland Street and North of US 50 West and is hereinafter referred to as the Project; and

WHEREAS, the Project has been studied by city officials who have determined that the extension of the sanitary sewer line as contemplated by the Project causes the least private injury while still accomplishing the public purposes of enhancing the city's sanitary sewer system and improving public health; and

WHEREAS, acquisition of an easement from certain parcels of real property not presently owned or controlled by the city is needed for the Project; and

WHEREAS, Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur are the owners of a parcel of land in Carson City which is hereinafter referred to as the Owners' Parcel and is known APN 009-191-11, is approximately 35,003 square feet in size; and

WHEREAS, Maria I. Dufur, Joe L. Dufur, Albert Dufur, and Michael Dufur are the owners of a parcel of land in Carson City which is hereinafter referred to as the Owners' Parcel and is known APN 009-287-02, is approximately 7,449 square feet in size; and

WHEREAS, negotiations with the current owners of the Owners' Parcels for the acquisition through purchase of the property interests necessary for the Project have not succeeded;

WHEREAS, an administrative value determination of the property was made by Lawrence A. Werner, P.E., P.L.S., Carson City Engineer, on October 12, 2006, which determined that the just compensation for the taking of the easement from Necessary Parcel APN 009-191-11 is Three Thousand Six Hundred Dollars (\$3,600.00) and for the taking of the easement from Necessary Parcel APN 009-287-02 is Seven Thousand Three Hundred Sixty Dollars (\$7,360.00) for a total amount of Ten Thousand Nine Hundred Sixty Dollars (\$10,960.00).

NOW, THEREFORE BE IT RESOLVED, by the Board of Supervisors of Carson City ("the Board") as follows:

1. The professional opinions of city officials and the information and testimony presented to the board of supervisors at the public hearing held on the day of the adoption of this resolution demonstrate that the public interest and necessity require the acquisition of a sanitary sewer easement from, certain parcels of real property for public use for the purpose of constructing, operating and maintaining certain portions of the Project which parcels are called Necessary Parcels;
2. The easements shown on the shaded portion of Exhibit B and Exhibit B1 and described by the legal description attached as Exhibit A and Exhibit A1 are easements from the Necessary Parcels, and are presently portions of the Owners' Parcels. The board finds it necessary that the city acquire the easements from to the Necessary Parcels.

3. The Project is to be located and is planned in a manner which is most compatible with the greatest public good and the least private injury and not harmful to historic landmarks or features.

4. The property interests in the Necessary Parcels as specified above will be used for a public use as a sanitary sewer and are necessary for the city's sanitary sewer use.

5. The Board directs that the power of eminent domain be exercised against any and all necessary parties to acquire the easements from the Necessary Parcels and the board finds that the acquisition is for the purpose of construction, repair and maintenance of certain portions of the Project.

6. The Board approves the taking of necessary action to accomplish the taking of the easements from the Necessary Parcels as stated above including, without limitation, obtaining any additional property appraisals or updates to existing appraisals, the hiring of experts to assist in the preparation and trial of the suit, the filing of a lawsuit in the proper court, the filing of a stipulation permitting the city to take possession of the Necessary Parcels, obtaining the right of entry which may be necessary for construction of the Project, and the deposit with the court of a sum of money equal to the just compensation for the taking of the Necessary Parcels as determined by Lawrence A. Werner, P.E., P.L.S., Carson City Engineer, on October 12, 2006, namely Three Thousand Six Hundred Dollars (\$3,600) on Necessary Parcel APN 009-191-11 and Seven Thousand Three Hundred Sixty Dollars (\$7,360.00) on Necessary Parcel APN 009-287-02.

7. The exhibits to this resolution consist of the following: Exhibit A and Exhibit A1 (Legal descriptions), and Exhibit B and Exhibit B1 (Map to Support Legal Description).

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

AYES: Supervisors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAYES: Supervisors \_\_\_\_\_

ABSENT: Supervisors \_\_\_\_\_

\_\_\_\_\_  
Marv Teixeira, Mayor

ATTEST:

\_\_\_\_\_  
Alan Glover, Clerk/Recorder

**LEGAL DESCRIPTION**

**EXHIBIT A  
(Public Utility Easement on APN 9-191-11)**

All that certain real property located within a portion of the Northeast 1/4 of Section 31, Township 15 North, Range 20 East, Mount Diablo Baseline and Meridian. Being more particularly described as follows starting at the Southwest corner of the left over parcel as shown on parcel map 2204 for Harris Homes, Inc. as file No. 199378 Official Records of Carson City, Nevada, which is located on the east Right-of-Way of Highway 395.

**THE POINT OF COMMENCEMENT,**

**THENCE** leaving said Right-of-Way S 89° 58' 39" E; 51.71 feet along the south line of said parcel map to the east line of said Section 31, **THE TRUE POINT OF BEGINNING.**

**THENCE** S 89° 58' 39" E; 30.00 feet along said south line to the end of the existing Public Utility Easement

**THENCE** S 00° 03' 20" W; 12.50 feet along said Public Utility Easement,

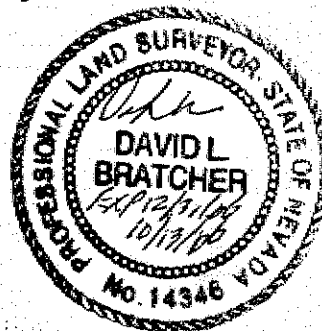
**THENCE** N 89° 58' 39" W; 30.00 feet to the East line of said Section 31.

**THENCE** N 00° 03' 20"E; 12.50 feet along said east line to **THE TRUE POINT OF BEGINNING**

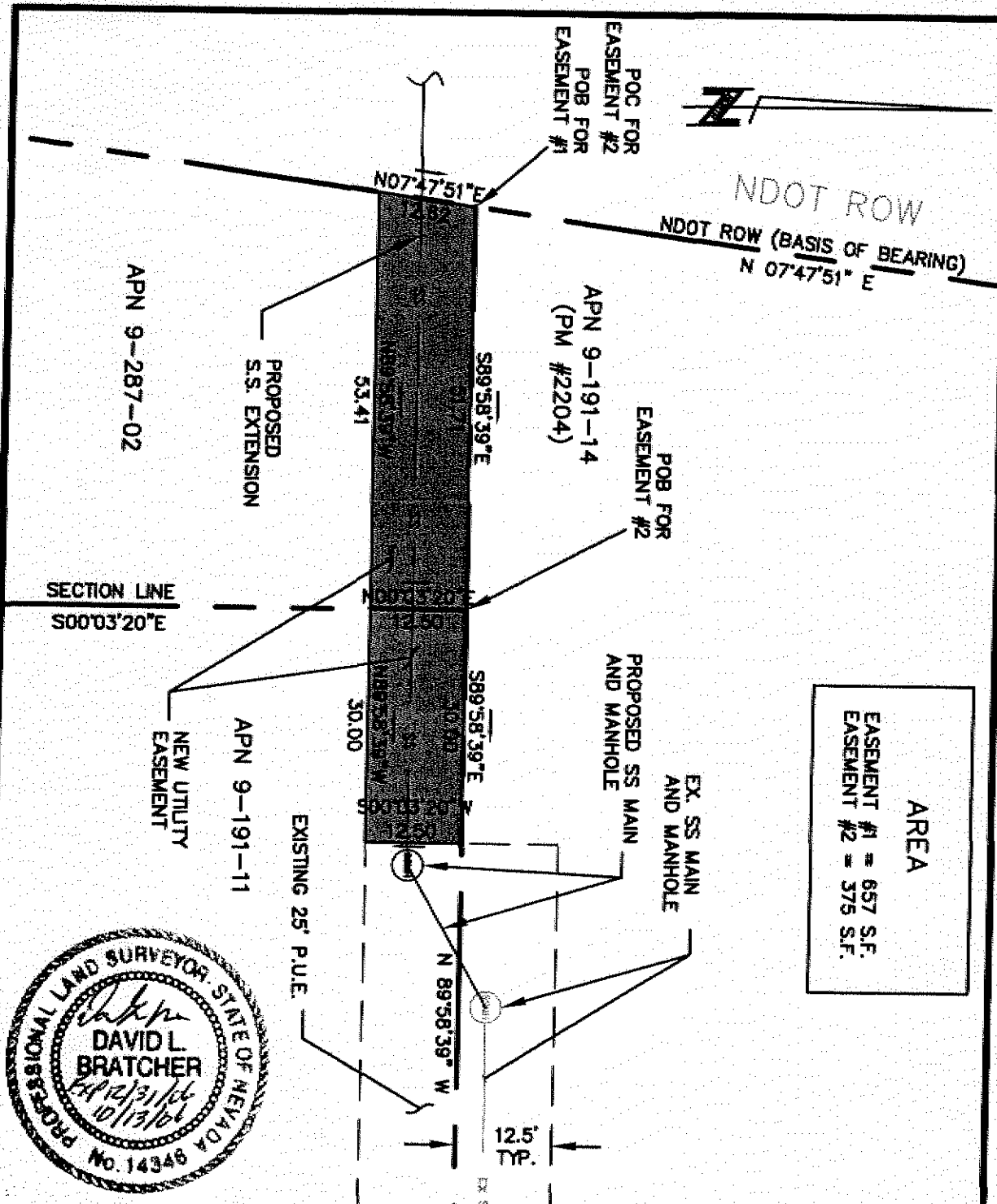
**CONTAINING** 375 square feet, more or less.

Prepared by:

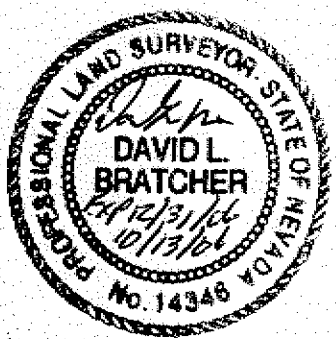
David L. Bratcher  
Lumos & Associates  
800 E. College Pkwy  
Carson City, NV 89706







AREA  
 EASEMENT #1 = 657 S.F.  
 EASEMENT #2 = 375 S.F.



**LUMOS**  
 & ASSOCIATES  
 800 E. COLLEGE PARKWAY  
 CARSON CITY, NEVADA 89706  
 PH. (775) 683-7077 FAX (775) 683-7114

CARSON CITY  
 EXHIBIT B  
**SANITARY SEWER EASEMENT**  
 CARSON CITY NEVADA

Date: 7/14/06  
 Scale: 1"=20'  
 Job No: 6745.001  
 FIGURE 1

**LEGAL DESCRIPTION**

**EXHIBIT A2  
(Public Utility Easement on APN 9-287-02)**

All that certain real property located within a portion of the Northeast 1/4 of Section 31, Township 15 North, Range 20 East, Mount Diablo Baseline and Meridian. Being more particularly described as follows starting at the Southwest corner of the left over parcel as shown on parcel map 2204 for Harris Homes, Inc. as file No. 199378 Official Records of Carson City, Nevada, which is located on the east Right-of-Way of Highway 395.

**THE TRUE POINT OF BEGINNING,**

**THENCE** leaving said Right-of-Way S 89° 58' 39" E; 51.71 feet along the south line of said parcel map to the east line of said Section 31,

**THENCE** S 00° 03' 20" W; 12.50 feet along said east line,

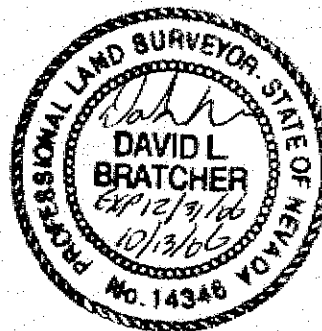
**THENCE** N 89° 58' 39" W; 53.41 feet to the said east Right-of-Way of Highway 395,

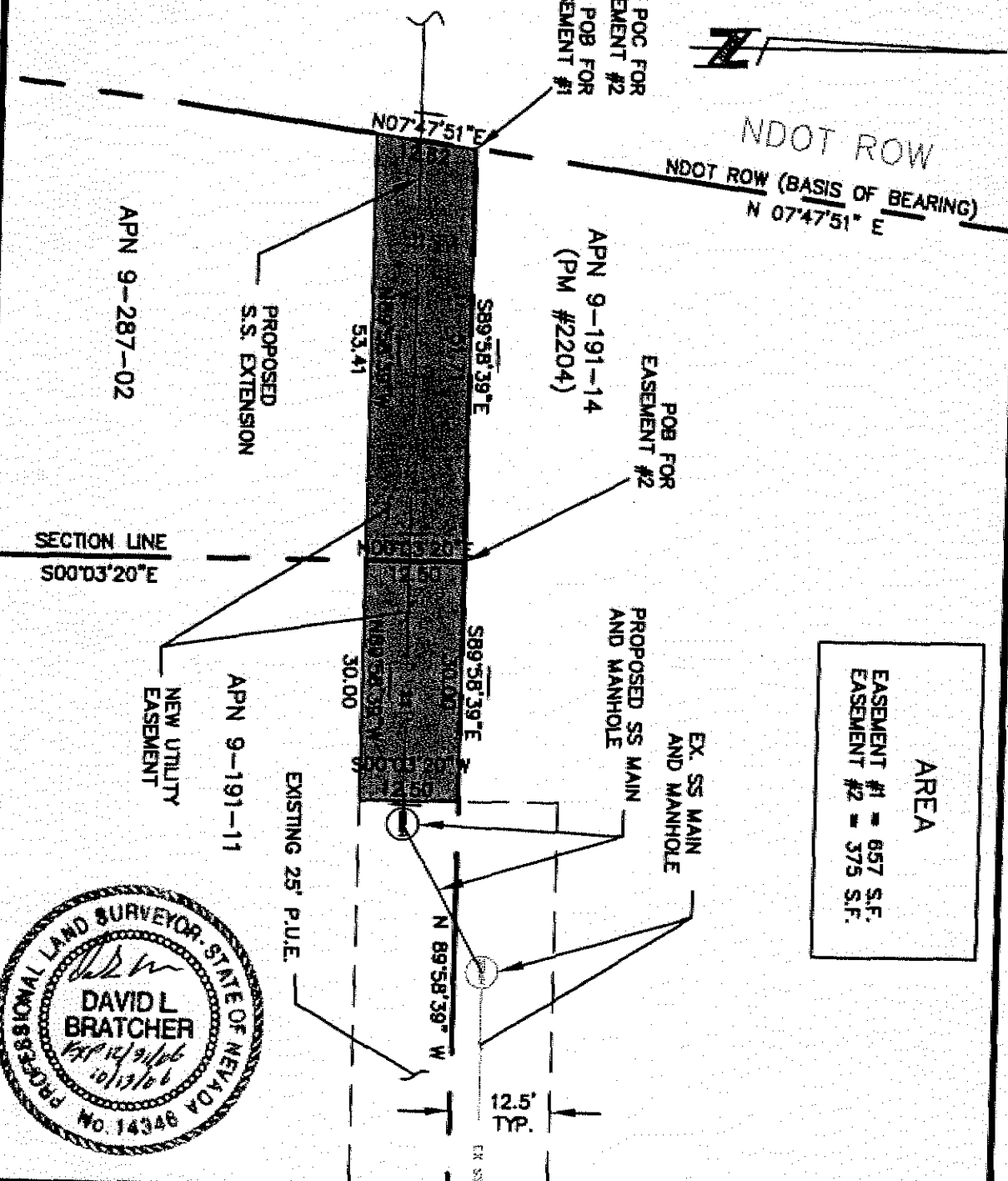
**THENCE** N 07° 47' 51" E; 12.62 feet along said east Right-of-Way, to the **TRUE POINT OF BEGINNING.**

**CONTAINING** 657 square feet, more or less.

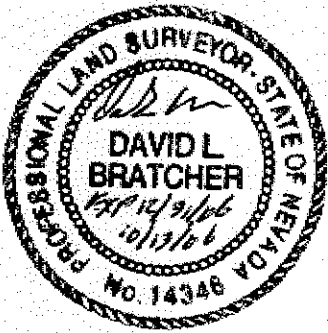
Prepared by:

David L. Bratcher  
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Carson City, NV 89706





AREA  
 EASEMENT #1 = 657 S.F.  
 EASEMENT #2 = 375 S.F.



**LUMOS**  
 & ASSOCIATES  
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 CARSON CITY, NEVADA 89706  
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CARSON CITY  
 EXHIBIT B  
**SANITARY SEWER EASEMENT**  
 CARSON CITY NEVADA

Date: 7/14/06  
 Scale: 1"=20'  
 Job No: 6745.001  
 FIGURE 1