

File No. 45347JOINT USE AGREEMENT

THIS AGREEMENT, entered into this 11th day of September, 1967, by and between BOARD OF COMMISSIONERS, TOWN OF CARLIN, MUNICIPAL POWER, hereinafter called "COMPANY" and the STATE OF NEVADA, acting by and through its Department of Highways, hereinafter called "STATE",

## WITNESSETH

WHEREAS, COMPANY is the owner in possession of certain rights of way and easement, hereinafter referred to as "Company's easement", acquired from Genola D. Lewis by agreement dated February 16, 1953, and John H. Murray, by agreement dated March 3, 1954, and Southern Pacific Land Company by Easement Deed No. 3354-W, dated August 6, 1951, and

WHEREAS, STATE has acquired certain lands for highway purposes included within Highway Project I-080-4(6)254, U. S. 40, 11-081, from 2.7 miles west of Emigrant Summit to near the west city limits of Carlin, Nevada, project located in Eureka and Elko Counties, Nevada, a distance of 11.4 miles, hereinafter called "highway right of way", which said highway right of way is subject to COMPANY'S easement; and

WHEREAS, COMPANY'S facilities on the said highway right of way will interfere with or obstruct the construction, reconstruction, maintenance, or use of said highway, and STATE desires COMPANY to eliminate such interferences or obstruction; and

WHEREAS, STATE and COMPANY have previously entered into an agreement dated November 9, 1965, hereinafter called "relocation agreement", wherein COMPANY agreed to make adjustments in its facilities required to eliminate such interference or obstruction;

NOW, THEREFORE, COMPANY and the STATE hereby mutually agree as follows:

1. The location of Company's easement, so far as it now lies within the

said highway right of way hereinafter called "old location", be, and said old location hereby is, changed to the strip of land within said highway right of way hereinafter referred to as "new location", described as follows:

A parcel or strip of land necessary to construct, operate, use and maintain an aerial power line, with anchor easements, located in the County of Eureka, State of Nevada, the centerline thereof being a traverse line passing over and across a portion of Lot 3, Section 12, T. 32N., R. 50E., M. D. B. & M.

Beginning at a point on a radial line 244.67 left at Highway Engineer's Station "Ow" 895+42.67 P.O.C., said point of beginning being further described as bearing N. 88° 37' 59" E. a distance of 1451 feet from the south 1/4 corner of Section 11, T. 32N., R. 50E., M. D. B. & M.; thence S. 81° 00' 05" W. a distance of 494.00 feet to a point; thence S. 48° 29' 37" W. a distance of 295.00 feet to a point which is common to existing Town of Carlin Power Pole #39.

Beginning at a point on the 1/16 section line between Lots 2 and 3, Section 12 T. 32N., R. 50E., M. D. B. & M, which point is 240.00 feet in a northerly direction from Nevada Highway Engineer's Station "Aw" 949+37±, which point is a point on the centerline of the westbound lane of Interstate 80, Project I-080-4(6)254, County of Eureka, Control Section 11-081, and continuing on a line which has a bearing of N. 71° 33' 55" E., being 240.0 feet from and parallel to said centerline, a distance of 1483± feet to an intersection with the Township Line between T. 32N., R. 50E., and T. 32N., R. 51E.

Beginning at a point on the northerly right of way line which point is described as being on a radial line 200 feet northerly from Highway Engineer's Station "Ow" 969+45 P. O. C., said point of beginning being further described as bearing N. 14° 32' 35" E., a distance of 2036.83 feet from the S. E. corner of Section 12, T. 32N., R. 50E., M. D. B. & M.; thence S. 22° 49' 59" E. a distance of 594 feet, more or less to a point on the centerline of the East-West power line; thence S. 71° 33' 55" W. a distance of 220 feet more or less to a point on the southerly right of way where it widens from 200 feet to 300 feet opposite State Highway Engineer's Station "Oe" 967+50.00 P. O. T.; thence from this point N. 71° 35' 55" E. a distance of 2920 feet, more or less, to a point; thence S. 86° 47' 37" E. a distance of 1555 feet more or less to a point; thence S. 81° 22' 44" E. a distance of 420 feet more less to a point on the right of way line where said right of way narrows from 600 feet to 200' right of Highway Engineer's Station "Oe" 1024+13.97 P. C.

COMPANY does hereby surrender and quitclaim to STATE all of COMPANY'S right, title and interest in and to Company's easement in said old location and, subject to and upon the terms and conditions herein contained, COMPANY does hereby consent to the construction, reconstruction, maintenance and use by STATE

of a highway over, along, upon and across Company's easement, both in said old location and in said new location.

2. STATE acknowledges Company's easement in said new location and the priority of COMPANY'S title over the title of STATE there in. COMPANY'S use, in common with the public's use, of said highway shall be subject to the terms and conditions of the relocation agreement.

3. In the event that the future use of said highway right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction, or removal of any of the COMPANY'S facilities then existing in said new location and STATE shall notify COMPANY in writing of such necessity and agree to reimburse COMPANY on demand for its costs incurred in complying with such notice, COMPANY will provide STATE with plans of its proposed rearrangement and an estimate of the cost thereof, and, upon approval of such plans by STATE, COMPANY will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. COMPANY shall make adequate provisions for the protection of the traveling public. No further permit or permission from STATE for such rearrangement shall be required and STATE will (1) enter into a joint use agreement on the same terms and conditions as are herein set forth covering any such subsequent relocation of COMPANY'S facilities within said highway right of way, and (2) either provide executed document(s) granting to COMPANY a good and sufficient easement outside of said highway right of way if necessary to replace Company's easement or any part thereof or, if it is mutually agreed in writing, that COMPANY shall acquire such easement, reimburse COMPANY for all costs which it may be required to expend to acquire such replacement easement.

4. Except as expressly set forth herein, this agreement shall not in any way alter, modify or terminate any provision of Company's easement. Both STATE and COMPANY shall use said new location in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a

release or waiver of any claim for compensation or damages which STATE or COMPANY may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either STATE or COMPANY in such manner as to cause an unreasonable interference with the use of said new location by the other party.

5. STATE hereby agrees that if said highway right of way, so far as it lies within said new location, is no longer needed for highway or other purposes and is to be abandoned or vacated, then STATE shall convey or cause to be conveyed to COMPANY by the owner(s) of the land a good and sufficient easement for the continued operation, maintenance and use of its then existing facilities and for the installation, construction, operation, maintenance and use of additional facilities from time to time along the alignment of its said then existing facilities.

6. That in the event of non-use by Grantee of said right of way described in "Parcel One" for a continuous period of two (2) years, then and in any of such events the right of way hereby granted, the use of which shall have been discontinued, shall thereupon immediately cease and terminate and the right of use and possession thereof and the title thereto shall immediately revert to and revest in Grantor.

7. It is understood that in the event of the rearrangement, relocation, reconstruction or removal of COMPANY'S facilities, as outlined in paragraph 3, by other than its own forces, COMPANY shall require compliance with Title VI, Civil Rights Act of 1964, as follows:

#### APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereafter referred to as the "contractor"), agrees as follows:

- (1) Compliance with Regulations: The contractor will comply with the Regulations of the Department of Commerce relative to nondiscrimination in Federally-assisted programs of the Department of Commerce

(Title 15, Code of Federal Regulations, Part 8, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

- (2) **Nondiscrimination:** The contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by Section 8.4 of the Regulations, including employment practices when the contract covers a program set forth in Appendix A II of the Regulations.
- (3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) **Information and Reports:** The contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway Department or the Bureau of Public Roads to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State Highway Department, or the Bureau of Public Roads as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the contractor's non-compliance with the nondiscrimination provisions of this contract, the State Highway Department shall impose such contract sanctions as it or the Bureau of Public Roads may determine to be appropriate, including but not limited to,
- (a) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor will include the provisions of paragraph (1) through (6) in every subcontract, including procurements or materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract or procurement as the State Highway Department or the Bureau of Public Roads may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State to enter

into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation, to protect the interests of the United States.

8. This agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their respective officials thereunto duly authorized.

BOARD OF COMMISSIONERS,  
TOWN OF CARLIN

|                         |                |
|-------------------------|----------------|
| Reviewed by:            | <u>AKS</u>     |
| Date:                   | <u>9-15-67</u> |
| Acceptable              | <u>  </u>      |
| Not Acceptable          | <u>  </u>      |
| Pursuant to NRS 408 935 |                |

Earl Trousdale  
Mayor



Attest: Helen J Rayton  
Town Clerk

STATE OF NEVADA, on relation of its  
Department of Highways

By: [Signature]  
Deputy State Highway Engineer

APPROVED:

[Signature]  
Utility Engineer

As to legality and form:

[Signature]  
Deputy Attorney General ~~and~~ Counsel

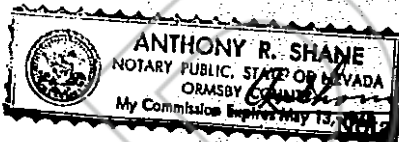


R/W 509 A

STATE OF Nevada )  
 : SS.  
County of Ormsby )

On this 18<sup>th</sup> day of September, 1967, personally appeared before me, the undersigned, a Notary Public in and for the County of Ormsby, State of Nevada, Earl Crowdale known (or proved) to me to be the chairman of the corporation that executed the foregoing instrument, and upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal the day and year in this certificate first above written.

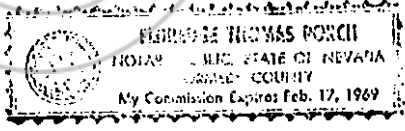
 ANTHONY R. SHANE  
NOTARY PUBLIC, STATE OF NEVADA  
ORMSBY COUNTY  
My Commission Expires May 13, 1968  
Anthony R. Shane  
Notary Public

STATE OF NEVADA )  
 : SS.  
County of ORMSBY )

On this 22<sup>nd</sup> day of SEPTEMBER, 1967, personally appeared before me, the undersigned, a Notary Public in and for the County of ORMSBY, State of Nevada, RALPH J. OTTINI, known to me to be the DEPUTY State Highway Engineer of the State of Nevada that executed the foregoing instrument for and on behalf of the State of Nevada, who upon oath did depose that he is the DEPUTY State Highway Engineer as above designated, that he is acquainted with the seal of the Department of Highways of the State of Nevada, that the seal affixed to said instrument is the seal of said Department, and that said instrument was executed for and on behalf of the State of Nevada freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Charles Thomas Ford  
Notary Public

 THOMAS PORCII  
NOTARY PUBLIC, STATE OF NEVADA  
ORMSBY COUNTY  
My Commission Expires Feb. 17, 1969

File No. 15347  
RECORDED AT THE REQUEST OF  
Department of Highways  
October 12 A. D. 19 67  
at 40 minutes past 3 P. M.  
in Book 20 of OFFICIAL RECORDS  
Page 519-525 Records of  
ELIHEKA COUNTY, NEVADA  
Willie G. Stewart  
Recorder Fee \$          No Fee