



OFFICIAL RECORD
AMY ELMER, RECORDER

WL-20, TA
Interest:15959
Project:6478
County: Lincoln
A.P.N.:011-050-04, 011-110-05 & 011-110-07

Recording Requested by and Return To:
DIVISION OF STATE LANDS
901 S. STEWART STREET, SUITE 5003
CARSON CITY, NV 89701-5246

NON-EXCLUSIVE UTILITY EASEMENT

Alamo Power District No. 3 Electric Line Non-Exclusive Easement

This Non-Exclusive Easement is made and entered into this 27th day of April, 2021 by and between the STATE OF NEVADA, acting through the NEVADA DIVISION OF STATE LANDS, for and on behalf of the NEVADA DEPARTMENT OF WILDLIFE, hereinafter referred to as GRANTOR, and ALAMO POWER DISTRICT NO. 3, hereinafter referred to as GRANTEE:

WHEREAS, THE STATE OF NEVADA is vested with fee simple title to the Property commonly known as Assessor Parcel Number: 011-050-04, 011-110-05 & 011-110-07, situate in the County of Lincoln, State of Nevada, and further described as portions of Section 3, & 10 of Township 5 South, Range 60 East, and portions of Section 23 & 27 of Township 4 South, Range 60 East; and

WHEREAS, GRANTEE, has made application to and wishes to obtain from the GRANTOR an easement for the public utilities in the Key Pittman Wildlife Management Area; and

WHEREAS, NRS 322.050 and 322.060 gives the Administrator of the Division of State Lands the authority to grant easements over or upon any land owned by the State of Nevada;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, GRANTOR does hereby grant to GRANTEE a Non-Exclusive Easement for the purposes stated above, hereinafter referred to as “the Project,” over, and under, across and/or through the following described property, together with the right to enter upon the property to construct, reconstruct, inspect, maintain, and repair structures and to remove bushes, undergrowth or other obstructions interfering with the location, construction and maintenance, in whole or in part, at will upon, over, and under, across and/or through a portion of that certain property situate in Sections 23 & 27, Township 4 South, Range 60 East and Section 3 & 10 Township 5 South, Range 60 East, as shown on **EXHIBIT A** attached hereto and by reference made a part hereof. The location of the Project is described in the legal description attached hereto as **EXHIBIT B** and by reference made a part hereof.

IN FURTHER CONSIDERATION for the granting of this Non-Exclusive Easement, GRANTEE, its successors and assigns and/or its agent(s) and contractor(s), understands and agrees to the following specific conditions:

1. **PURPOSE:** The property described herein may be used by GRANTEE solely for the Project. The Project shall be executed in accordance with the Right-of-Way Easement for

Alamo Power District No. 3 in accordance with the project description on utility easement application submitted by Alamo District No. 3, dated September 14, 2020 incorporated herein and by reference made a part hereof.

2. JURISDICTION OF STATE: The Non-Exclusive Easement for the Project extends only to the areas described in **EXHIBITS A and B** and shall not be construed to authorize access across private lands. If GRANTEE needs to utilize other portions of the property not granted to it through this Non-Exclusive Easement, a permit, license, easement or other authorization to do so is required.

3. CONSIDERATION: For and in consideration of the Project, GRANTEE, its successors and assigns, hereby agree to pay an annual use fee in the amount of TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) per year to the GRANTOR for the Project [NRS 321.003(2),322.060(2)]. Said fees are to be paid in advance commencing on the execution date of this Non-Exclusive Easement and on or before December 1st every year thereafter for the entire duration of said Non-Exclusive Easement. This is payable to the STATE OF NEVADA, DIVISION OF STATE LANDS, and is to be mailed to:

**DIVISION OF STATE LANDS
901 S. STEWART ST., SUITE 5003
CARSON CITY, NV 89701**

The GRANTOR reserves the right to reevaluate, reassess and adjust the Non-Exclusive Easement fee for the Project every FIVE (5) years. Should GRANTEE dispute a proposed fee increase, the dispute may be resolved by an appraisal of the fair market value of the Non-Exclusive Easement and other actions as required by law. The parties may by mutual agreement

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select an independent licensed appraiser to determine the fair market value. The GRANTEE shall pay for the appraisal and any associated costs.

4. **LATE PAYMENT FEE:** The annual use fee shall be paid in advance to GRANTOR and shall be due on or before the due date provided herein. Any payment made after this due date shall be subject to a late payment fee in the amount of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00). If fees, including late fees, become more than SIXTY (60) days in arrears, the Non-Exclusive Easement may be terminated by GRANTOR.

5. **PERMITS:** This Non-Exclusive Easement is subject to the acquisition of all local, regional, state and federal permits and approvals as required by law. GRANTEE agrees to obtain and adhere to the conditions of the necessary permits.

6. **INDEMNIFICATION:** GRANTEE, its successors and assigns, and/or agent(s) or contractor(s) as Indemnitors agrees to indemnify, defend and hold harmless the State of Nevada and its agents from and against any and all liability for personal injuries, claims, actions, damages, expenses, or for loss of life or property resulting from, or in any way connected with the conditions or use of the premises covered herein, including any hazard, deficiency, defect, or other matter, known or unknown, or connected with the installation and maintenance of the Project. This indemnification does not exclude the State of Nevada's right to participate in its defense of a matter subject to this indemnification.

7. **LIMITED LIABILITY:** GRANTOR will not waive and intends to assert all available immunities and statutory limitations in all cases, including, without limitation, the provisions of Nevada Revised Statutes Chapter 41.

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8. INSURANCE; CONTRACTORS AND SUB-CONTRACTORS: This provision is applicable to all Non-Governmental Entities engaged to work on the premises granted by this Non-Exclusive Easement and does not apply to any GRANTEE considered a Public Entity. GRANTEE agrees to carry and to require their contractors and sub-contractors to carry their own General Liability Insurance Policy issued by an insurance company authorized to do business in the State of Nevada and which is currently rated by A. M. Best as A-VII or better. The insurance policy is to be kept in full force and effect during the term of this Non-Exclusive Easement. Such insurance policy shall be at the minimum, in the amount of \$1,000,000 per occurrence for bodily injury and property damage and shall via an endorsement, name the *State of Nevada, its officers, employees and agents as additional insureds* for all liability arising from the use of state land. Each liability insurance policy shall also provide for a waiver of subrogation as to all additional insureds. GRANTEE agrees to provide and to require their contractors and sub-contractors to provide to the State of Nevada the Accord 25 Certificate of Insurance as proof of the insurance and an Additional Insured Endorsement, signed by an authorized insurance company representative, to evidence the endorsement of the State as additional insured. **The Certificate of Insurance and Additional Insured Endorsement shall be provided by each contractor and sub-contractor prior to their entry upon state property and be sent to:**

**Traci Adams, State Land Agent II
Nevada Division of State Lands
901 S. Stewart Street, Suite 5003
Carson City, Nevada 89701**

9. PLANS AND PHOTOGRAPHS: The Project and related activities must be completed in accordance with the approved application and plans on file in the office of the Division of State Lands. The Division of State Lands must be notified if any alterations to the approved plans which would substantially affect the land are made or proposed prior to commencement of or during any work on the Project and related activities. The Division of State Lands reserves the right to prohibit said alterations. GRANTEE agrees to provide GRANTOR with a set of before and after construction photographs of the Project to be taken from established points agreed to by GRANTOR.

10. INSPECTION: GRANTOR retains the right to inspect the Project at any time. GRANTEE agrees to notify GRANTOR at least **TWO (2)** business days prior to the commencement and termination of any activities on the property to allow interested agencies the opportunity to inspect the Project.

11. EXISTING EASEMENTS: GRANTEE, its successors and assigns, and/or its agent(s) or contractor(s) understands and agrees to require contractors to use caution when constructing and placing the Project and supporting equipment because of the possibility of additional utility laterals not known, and to be responsible for damage caused to any other utilities located upon state land. The legally required offsets from any existing gas, electric, water and/or communication lines shall be maintained at all times.

12. HISTORIC DISCOVERIES: If prehistoric or historic remains or artifacts are discovered during any work performed within the Non-Exclusive Easement, work will be temporarily halted and the State Historic Preservation Office at (775) 684-3448 as well as the

Division of State Lands at (775) 684-2720 shall be notified. GRANTEE will heed to the responsibilities required under Section 106 of the National Historic Preservation Act of 1966, as amended.

13. DAMAGE TO STATE LAND: GRANTEE, its successors and assigns, and/or its agent(s) or contractor(s) understands and agrees to pay for and be responsible for all direct or indirect damages to the real property, improvements, and personal property of GRANTOR caused by GRANTEE during any construction, re-location, installation, use, operation, inspection, future maintenance, repairs, reconstruction and removal of the Project, and further agrees to return the land to its pre-project condition upon completion of the work.

14. MAINTENANCE: GRANTEE, its successors and assigns, shall be responsible for all maintenance of the Project owned by GRANTEE and within the Non-Exclusive Easement and understands and agrees that the Project must be maintained in good repair at all times.

15. ENVIRONMENTAL CONDITIONS: GRANTEE, its successors and/or its agent(s) or contractor(s) understands and agrees to maintain the Project within the Nevada Division of Environmental Protection's Best Management Practices guidelines.

16. WARRANTIES: GRANTOR makes no warranty as to the condition of or the adequacy of the property for the proposed uses of GRANTEE.

17. NOTICES: All notices under this Non-Exclusive Easement shall be in writing and delivered in person or sent by certified mail, return receipt requested, to GRANTOR and to GRANTEE at their respective addresses set forth below or to such other address as may hereafter be designated by either party in writing:

GRANTOR'S ADDRESS:

Division of State Lands
901 S. Stewart St., Ste. 5003
Carson City, Nevada 89701

GRANTEE'S ADDRESS:

Name: Alamo Power District No. 3
Street: P.O. Box 189
City, State: Alamo, NV 89001

18. FURTHER AUTHORIZATIONS: Further authorization from the Division of State Lands is required prior to commencement of any future work or activities at locations other than that described in **EXHIBITS A & B**.

19. TERMINATION: Either party shall have the right to terminate this Non-Exclusive Easement in whole or in part any time during the term hereof, provided, however, that either party shall give NINETY (90) days written notice of election to terminate. Upon termination, the land will be returned to as near as its original condition as possible. The GRANTEE, its successors and assigns, understands and agrees that at the termination of this Non-Exclusive Easement the Project will be removed by GRANTEE, if so requested by GRANTOR, and the land restored to its pre-project condition. Any and all right, title or interest must be quitclaimed by instrument to the GRANTOR within a reasonable time, without claim or demand of any kind from GRANTOR. Except as might otherwise be provided for, any expenses for removal of the Project and for the restoration of the land will be borne by GRANTEE, its successors and assigns at no expense or cost to the GRANTOR.

20. TERM AND DISCONTINUATION: This Non-Exclusive Easement shall continue so long as the same may be necessary and required for the purposes for which it was granted unless terminated sooner by another provision. If at any time the GRANTEE should discontinue

said use for a period of ONE (1) year this Non-Exclusive Easement shall thereupon terminate and all right, title and interest therein shall revert to GRANTOR, its successors and assigns.

21. COMPLIANCE TO CONDITIONS: Failure to concur with or comply with any of the conditions contained herein will cause this Non-Exclusive Easement to become invalid and shall require the removal of the Project and appurtenances. All right, title and interest in the Non-Exclusive Easement shall revert to GRANTOR. GRANTEE agrees to provide a copy of this Non-Exclusive Easement to its contractors prior to entering and beginning any work on the property described herein.

22. WAIVER: The failure of GRANTOR to insist upon strict performance of any of the covenants and agreements to this Non-Exclusive Easement or to exercise any option herein conferred in anyone or more instance, shall not be construed to be a waiver or relinquishment of any such covenants and agreements.

23. SURVIVAL: This Non-Exclusive Easement, and all of the terms hereof, shall inure to the benefit of, and be binding upon, the heirs, assigns and successors of the parties hereto, and the rights and obligations of the GRANTEE are, and shall continue to be, joint and several.

24. ENTIRE AGREEMENT: This Non-Exclusive Easement and conditions incorporated herein contain all of the agreements between the parties with respect to the matters contained herein. No prior agreement, understanding or verbal statement made by any party is a part hereof. No provisions of the Non-Exclusive Easement may be amended or modified in any manner whatsoever unless incorporated in writing and executed by both

parties. When executed by the GRANTOR and GRANTEE, this Non-Exclusive Easement shall be binding upon GRANTOR and GRANTEE, their successors and assigns.

25. AMENDMENT OR MODIFICATION: This Non-Exclusive Easement may be amended or modified at any time with the mutual consent of the parties hereto, which amendment or modification must be in writing, executed and dated by the parties hereto.

26. SEVERABILITY: If any term or provision of this Non-Exclusive Easement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Non-Exclusive Easement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable shall not be affected thereby, and each term and provision of this Non-Exclusive Easement shall be valid and shall be enforced to the fullest extent permitted by law.

27. GOVERNING LAW: This Non-Exclusive Easement shall be governed by, construed and enforced in accordance with the laws of the State of Nevada.

28. VENUE: Any lawsuit brought to resolve a dispute arising from this Non-Exclusive Easement must be brought either in the location of the Project or in Carson City, Nevada.

29. ASSIGNMENT OF EASEMENT: This easement may not be assigned or transferred without prior written approval of the GRANTOR. Such approval will not be unreasonably withheld.

30. RECORDING: This Non-Exclusive Easement may be recorded in the official real estate records of the county in which the property is located. GRANTEE shall be responsible for all recording fees.

All covenants and agreements herein contained shall extend to and be a binding contract upon the successors and assigns as the case may be of the respective parties. Authorization given by the Division of State Lands does not obviate the necessity of obtaining other local, regional, or federal assent to the work authorized.

IN WITNESS WHEREOF, the parties hereto have executed this Non-Exclusive Easement as of the day and year first above written.

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GRANTOR:

**STATE OF NEVADA
Division of State Lands**

By Charles Donohue
CHARLES DONOHUE
Administrator and State Land Registrar

STATE OF NEVADA)
 :SS.
CARSON CITY)

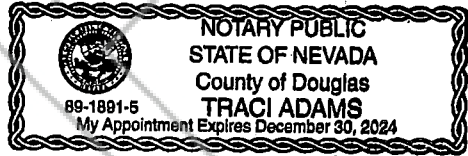
On April 27, 2020²¹ personally appeared before me, a notary public
CHARLES DONOHUE, Administrator and State Land Registrar, Division of
State Lands, who acknowledged that he executed the above document.

NOTARY PUBLIC

APPROVED as to Form:

**AARON D. FORD
Attorney General**

By: Tori N. Sundheim
TORI N. SUNDHEIM
Deputy Attorney General



Date: 4/1/21

APPROVED:

STATE OF NEVADA
Department of Wildlife

By: Tony Wasley
TONY WASLEY

Date: 2/23/21

EXHIBIT A



EASEMENT FOR ALAMO POWER DISTRICT UTILITY LINE ACROSS
PORTIONS OF KEY PITTMAN WILDLIFE MANAGEMENT AREA, STATE
OF NEVADA OWNED PARCELS 011-054-04, 011-110-05,
011-110-07, LINCOLN COUNTY, NEVADA

DISTANCES ARE APPROXIMATE

Created: 11/10/2020

This map is prepared for the use of the Nevada Division of State Lands
for illustrative purposes only. It does not represent a survey of the premises.
No liability is assumed, and all rights are reserved.



Nevada Division of
STATE LANDS

EXHIBIT B

This description provides an easement across Lincoln County Parcels 001-050-04, 001-110-05, and 001-110-07 being 20 feet in width and, where needed, this easement to be coincident with the parcel boundary, and not include any portion that falls outside of the parcels contained in this description.

Southern Portion, APNs 001-110-07 and 001-110-05:

Starting on the southerly boundary of Lincoln County APN 011-110-07 ("parcel 1"), owned by the State of Nevada, where Alamo Power District's Utility Line ("the utility line") intersects the southerly boundary of parcel 1, running in a northwesterly direction approximately 1590 feet to the intersection of the utility line and the northern boundary of parcel 1, also being the southerly boundary of Lincoln County APN 001-110-05 ("parcel 2") and continuing in the same northwesterly direction approximately 880 feet to a utility pole, then northeasterly approximately 500 feet to the intersection of the utility line and the boundary of parcel 2.

Northern Portion, APN 011-050-04:

Starting on the southerly boundary of Lincoln County APN 001-050-04 ("parcel 3"), owned by the State of Nevada, where the utility line intersects the southerly boundary of parcel 3, running in a northwesterly direction approximately 1820 feet to a utility pole, then a north easterly direction approximately 680 feet to a utility pole, then north easterly approximately 1380 feet to a utility pole, then northeasterly approximately 700 feet to the intersection of the utility line and the westerly edge of parcel 3 also being the easterly Right of Way for Nevada State Route 318 ("SR 318 ROW"), then leaving SR 318 ROW and re-entering parcel three, approximately 2,940 feet northeasterly of where the utility exited parcel 3, and continuing in a northeasterly direction approximately 650 feet to a utility pole.