
BRENT P. COLLINSON, ATTORNEY AT LAW

DATE: 7/16/2015
TO: BOARD OF DIRECTORS, TRCUKEE TAHOE AIRPORT
DISTRICT
FROM: BRENT P. COLLINSON
RE: LIBERTY UTILITIES EASEMENT

Dear Board—An Agenda item for the July Board Meeting deals with selling an easement to Liberty Utilities. There are three different documents that need to be approved for this to go forward. The three documents are:

- Amendment to Grant of Conservation Easement;
- Agreement for Acquisition of Easement; and
- Grant of Easement.

Background: When the District acquired Waddle Ranch, it was in conjunction with the Truckee Donner Land Trust (“TDLT”), Placer County and other private and government entities. Although title to the property was initially deeded to TDLT, who then gave the Conservation Easement (“CE”) to Placer County, TDLT then deeded ownership of the property to the District and we took it subject to the CE, which could be enforced by both TDLT and Placer County.

One of the “restrictions” in the CE was that no further construction or improvements take place on the property. Arguably, this includes an expanded utility easement.

In the meantime, Liberty Utilities, which has an existing 25-foot wide easement for a utility line, desires to upgrade that line and needs an additional 15 feet of easement. As a public utility, they possess the power of eminent domain.

Before the District can grant the requested easement, notice (and approval) must be given to and received from TDLT. We have therefore been working with both TDLT, Placer County and Liberty Utilities on addressing these challenges, knowing that Liberty

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Utilities could commence an Eminent Domain action if the easement was not "sold" to them.

After negotiations between all of the parties, it was agreed that the District, TDLT and Placer County would agree to amend the CE to allow for this expanded easement to be created. Liberty also agreed to increase the compensation paid for the easement.

Therefore, the three documents to be approved are discussed below:

1. Agreement to Amend Conservation Easement. This is the agreement between the District, TDLT and Placer County that the CE can be and is amended so to allow the expanded utility easement to be granted. The recitals in that document also explain the background and how we got to this point.
2. Agreement for Acquisition of [Utility] Easement. This document sets forth the Agreement between the District and Liberty Utilities that we are selling them the additional 15 feet of easement so they will have a 40 foot wide easement.
3. Grant of Easement. This is the actual document transferring the additional 15 feet of easement.

One additional item to note is in regards to the compensation to be paid by Liberty Utilities. The amount to be paid is \$6,850, as determined by Johnson Perkins (on behalf of Liberty Utilities) and is determined based on the value of the easement IF the CE was not in place and the property could be developed.

However, per sections 19 and 20 of the CE, any eminent domain proceeds are to be divided 87% to TDLT and 13% to the District (after compensating either party for their reasonable expenses). This 87/13 division is based on the contributions to acquire the property: \$3,000,000 by the District and \$20,500,000 obtained by TDLT. It is unknown the amount of reasonable expenses incurred by TDLT and we are in the process of determining our reasonable expenses and will have that amount available at the Board Meeting.

It is therefore recommended that the Board approve the execution of each of these three documents, which can be done in one (or three) Motions.



BPC