

**MEMORANDUM OF AGREEMENT
AMONG
THE CITY OF RENO,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND
STEAMBOAT BY VINTAGE, LP
REGARDING CONSTRUCTION OF
THE STEAMBOAT AT THE SUMMIT APARTMENTS, RENO, NEVADA
(UT #2017-4916)**

WHEREAS, the City of Reno (Agency), on behalf of the US Department of Housing and Urban Development (HUD), is proposing to issue federal grant funds under Title II of the Cranston-Gonzalez National Affordable Housing Act to Steamboat by Vintage, LP, for the construction of the Steamboat at the Summit Apartments. The Steamboat at the Summit Apartments (hereinafter referred to as SSA) constitutes an undertaking as defined in the National Historic Preservation Act (NHPA) (54 USC § 300320); and

WHEREAS, the SSA consists of a 360 unit, 15-building apartment complex located in Washoe County, Nevada. The 15 buildings within the complex will be connected by a series of internal roads interspersed with approximately 650 parking spaces. Access to the SSA will be from Geiger Grade (SR341). Landscaping will be added throughout SSA that will include pedestrian walkways, open spaces, and an in-ground swimming pool. The grading of the site is expected to involve placement of as much as seven feet of fill with minimal cuts. The building foundations will be shallow and, except for the swimming pool, the depth of disturbance is not anticipated to exceed three feet; and

WHEREAS, the Agency is responsible for the Section 106 of the National Historic Preservation Act compliance for SSA and the Agency has consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to 36 CFR § 800, implementing Section 106 of the NHPA (54 USC § 306108); and

WHEREAS, the Agency has defined the SSA's area of potential effect (APE) as the geographic areas within which the undertaking may have direct or indirect effects to historic properties (Attachment 1.1, and 1.2). The direct APE, in which physical ground disturbance related to the construction of the SSA, is an irregularly shaped block totaling 18.41 acres. The indirect APE is comprised of a ½ mile buffer surrounding the direct APE and covering a total of 1,078 acres; and

WHEREAS, the Agency has consulted with the public as part of the National Environmental Policy Act (NEPA) process, and made a draft Environmental Assessment for SSA available for public review and comment in June of 2017; and

WHEREAS, the Agency, in consultation with the SHPO, determined that the SSA will have an adverse effect on one (1) historic property, 26Wa1444, which the Agency determined is eligible under the Secretary's Significance Criterion D for listing in the National Register of Historic Places (NRHP); and

WHEREAS, the Agency, in consultation with the SHPO, identified thirteen (13) historic buildings that are located in the indirect APE for the SSA that are currently unevaluated. However, the Agency determined that the SSA will not have an adverse effect on these historic buildings; and

WHEREAS, in accordance with 36 CFR § 800.3(f), the Agency has invited the following federally recognized tribes, with areas of interest in Washoe County, Nevada, to consult regarding the effects of SSA on historic properties, to attend public meetings and to provide input in the design: Lovelock Tribal Council; Summit Lake Paiute Tribal Council; Carson Community Council; Stewart Community Council; Woodfords Community Council; Winnemucca Tribal Council; Yomba Tribal Council; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation; Paiute Shoshone Tribe of the Fallon Reservation and Colony; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation; Reno Sparks Indian Colony; Walker River Paiute Tribe; Carson Colony; Dresslerville Colony Ranch; Stewart Community Ranch; Washoe Tribe of Nevada and California; Woodfords Community Ranch; and the Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch; and

WHEREAS, the Washoe Tribe of California and Nevada (Washoe), the Reno-Sparks Indian Colony (RSIC), and the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation (PLPT) (hereinafter collectively referred to as the Tribes) have elected to participate in the resolution of adverse effects and are invited to sign this Memorandum of Agreement (MOA) as Concurring Parties; and

WHEREAS, in accordance with the 36 CFR § 800.3(f), the Agency has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination, and the ACHP has declined to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Agency has consulted with Steamboat by Vintage, LP, (Owner), and it has agreed to sign this MOA as an Invited Signatory; and

NOW, THEREFORE, the Agency, the SHPO, the Tribes, and Owner agree that the SSA shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The Agency shall ensure that the following measures are carried out:

I. MITIGATION OF ADVERSE EFFECTS

A. Development of an Historic Property Treatment Plan (HPTP) for 26Wa1444:

- A. The Agency, through its qualified Cultural Resource Management consultant (CRM), will prepare an HPTP that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 CFR 44716-37) and follow the guidance provided in the ACHP's Section 106 Archaeology Guidance (www.achp.gov/archguide) (2009).
- B. The Agency shall submit the draft HPTP to the SHPO.
- C. The Agency shall concurrently submit a copy of the draft HPTP to the Tribes, as appropriate.

- D. The SHPO, and the Tribes as appropriate, will review and comment on the draft HPTP within thirty (30) calendar days of receipt. If the SHPO or Tribes do not respond within thirty (30) calendar days, the Agency may assume concurrence and finalize the HPTP.
- E. The Agency shall provide the SHPO with all comments received from the Tribes on the draft HPTP within ten (10) days of receipt.
- F. The Agency shall revise the draft HPTP to address the comments provided by the SHPO, and Tribes as appropriate.
- G. The Agency shall submit the updated HPTP to the SHPO and Tribes for review. Upon final approval of the HPTP by the SHPO, the Agency (through its CRM) shall begin implementation of the HPTP.
- H. The owner shall allow a Tribal monitor to be present during all fieldwork associated with 26Wa1444 as defined in the HPTP.

II. GROUND-DISTURBING ACTIVITIES OUTSIDE OF AVOIDANCE AREAS AND THE RELEASE OF AVOIDANCE AREAS

- A. Upon execution of the MOA, the Owner shall not proceed with ground disturbing activities in the APE for SSA until the Agency (through the CRM), in consultation with the SHPO, has established Avoidance Areas to protect the historic property. The Avoidance Areas for 26Wa1444 will be defined within the HPTP developed for the site.
 - 1. The Owner (through its CRM) shall ensure that the Avoidance Areas are adequately marked and protected by any means deemed appropriate by the Agency, in consultation with the Owner.
 - 2. The Agency, in consultation with the SHPO, shall approve the Avoidance Areas and shall issue a Notice to Proceed (NTP) for SSA activities outside of the Avoidance Areas. The Owner shall ensure that work outside of the Avoidance Areas is consistent with the terms of the HPTP for those areas.
 - 3. The Owner (through its CRM) shall inspect the Avoidance Areas at least once per week during any construction activities for SSA or at least once per month when no construction activity is planned for SSA. The Agency shall provide electronic reports of these inspections to the SHPO within five (5) days of the inspection.
 - 4. The Agency, in consultation with the SHPO, shall release the Avoidance Areas, or portions of the Avoidance Areas, from continued protection after the Agency determines that the fieldwork portion of the HPTP for the area has been completed. The Agency may issue this determination to the Owner after:

- a. The CRM has completed the fieldwork phase of the HPTP in the Avoidance Area proposed for release; and
 - b. The Agency shall review the fieldwork summary and provide any comments to Owner within five (5) calendar days; and
 - c. Owner shall respond to any comments and provide a response to Agency within two (2) calendar days; and
 - d. Upon Agency approval of the fieldwork summary, the Agency shall provide an electronic copy to the SHPO within (2) calendar days; and
 - e. The SHPO shall review the summary within seven (7) working days of receipt. If the SHPO does not respond within seven (7) working days, the Agency may assume concurrence; and
 - f. The Agency shall address all comments provided by the SHPO. The Agency shall submit an updated fieldwork summary to the SHPO; and
 - g. The SHPO shall review the updated fieldwork summary within seven (7) working days of receipt. If the SHPO does not respond within seven (7) working days, the Agency may assume concurrence; and
 - h. The Agency shall provide the Owner with a written determination that all or a portion of the Avoidance Areas may be released and any land disturbing activities in the released portions of the Avoidance Areas may proceed.
- B. All Avoidance Areas that have not been released by the Agency under Stipulation II.A.4 above will remain protected and monitored in accord with Stipulation II.A.3 above for the duration of the MOA.

III. REPORTING RESULTS OF MITIGATION

- A. The Owner, through its CRS, shall provide a draft mitigation document containing the required elements described in the HPTP to the Agency within twelve (12) months, or as otherwise negotiated by the Signatories, of the SHPO acceptance of the last fieldwork summary required to release the final Avoidance Area as described in Stipulation II.A.4.
- B. The Agency shall review the draft mitigation document and provide any comments to Owner within thirty (30) calendar days of receipt; and
- C. The Owner shall respond to any comments and provide a response to the Agency within ten (10) calendar days; and

- D. Upon Agency approval of the draft mitigation document, the Agency shall provide a hard copy of any or all draft data recovery and/or mitigation reports to the SHPO, and Tribes as appropriate, within (2) days; and
- E. The SHPO, and Tribes as appropriate, will have thirty (30) calendar days from their receipt to review and comment on any submission. If no comments are received within the comment period, the Agency may assume the SHPO and the Tribes have no comment on the contents of any submitted draft data recovery and/or mitigation report and may direct the CRS to finalize the report.
- F. The Owner, through its CRS, shall make any SHPO requested changes to the draft data recovery and/or mitigation reports document and return the amended document to the Agency within sixty (60) calendar days of receipt of SHPO comments.
- G. Once the SHPO concurs that the document is adequate, the Owner shall finalize the document and submit two final copies via the Agency to the SHPO.
- H. The Agency shall ensure that all final data recovery and/or mitigation reports resulting from actions pursuant to this MOA will be provided to the Tribes as appropriate.

IV. DURATION

This MOA will expire if its terms are not carried out within five (5) years of its execution. Prior to such time, the Agency may consult with the other Signatory and Invited Signatory to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

V. MONITORING AND POST-REVIEW INADVERTENT DISCOVERIES

- A. The Owner shall ensure that an archaeologist meeting the Secretary of the Interior Professional Qualifications Standards for Archaeology will monitor all clearing, debris removal, and rough grading in the eighteen (18.41) acres of the SSA site including any trenching for utilities or other subsurface excavations required for SSA in previously undisturbed soils. The CRM will ensure that the location of undisturbed soils, and areas of fill or disturbed soils, is identified in the HPTP overlain on a map of the developments associated with SSA.
- B. The Owner shall allow a Tribal monitor to be present during all clearing, debris removal, rough grading and subsurface excavation activities in previously undisturbed soils.
- B. In the event the Owner, the archaeologist monitoring ground disturbing activities consistent with Stipulation V.A above, or any construction personnel identify unanticipated cultural resources during construction associated with SSA, the Owner shall notify the Agency and the SHPO immediately, followed by a report of findings within forty-eight (48) hours in writing. All activities within fifteen (15) meters of the discovery shall cease immediately until authorized to proceed by the Agency.

1. Agency shall ensure the discovery is confirmed, assessed, and recorded as needed by a professional meeting the Secretary of Interior's Qualification Standards.
2. If the discovery is an archaeological site, Agency shall ensure that the discovery is recorded on an Intermountain Antiquities Computer System form, including appropriate continuation sheets and following SHPO guidelines. The Agency shall determine eligibility for listing on the NRHP, following the criteria of 36 CFR § 60.4, and consult with the SHPO on that determination. The SHPO shall have seven (7) calendar days from receipt to provide comments on the Agency's determination.
 - a. If the Agency, in consultation with the SHPO, determines that the discovered site is not eligible for listing on the NRHP, then no further actions will be required.
 - b. If the Agency, in consultation with the SHPO, determines that the discovered site is eligible for listing on the NRHP, then the Agency shall further consult with the SHPO on measures to resolve any adverse effects to the historic property.
3. If the discovery includes human remains, the Owner or a contractor employed by the Owner, shall immediately contact law enforcement officials to assess the nature and age of the human remains. If the Washoe County Coroner determines that the human remains are older than 50 years of age and are not a crime scene, the Owner shall immediately contact the SHPO. Following notification, the SHPO will administer the requirements of NRS 383 for remains determined by the Coroner to be Native American in origin. For all other remains, the Agency in consultation with the SHPO shall ensure appropriate reinterment.

VI. DISPUTE RESOLUTION

Should any Signatory, Invited Signatory, or Concurring Party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Agency shall consult with such parties to resolve the objection. If the Agency determines that such objection cannot be resolved, the Agency will:

- A. Forward all documentation relevant to the dispute, including the Agency's proposed resolution, to the ACHP. The ACHP shall provide the Agency with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Agency shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the SHPO, and provide them with a copy of this written response. The Agency will then proceed according to the final decision.

- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period, the Agency may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, the Agency shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO, and provide it and the ACHP with a copy of such written response.
- C. The Agency's responsibility to carry out all actions subject to the terms of this MOA, which are not the subject of the dispute, remain unchanged.

VII. AMENDMENTS

This MOA may be amended when all Signatories and the Invited Signatory agree to such an amendment in writing. The amendment will be effective on the date a copy signed by all of the Signatories is filed with ACHP.

VIII. TERMINATION

- A. If any Signatory or Invited Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories and Invited Signatory to attempt to develop an amendment per Stipulation VII. If within thirty (30) days (or another period agreed to by all Signatories and Invited Signatory) an amendment cannot be reached, any Signatory or Invited Signatory may terminate the MOA upon written notification to the other Signatories or Invited Signatory.
- B. Once the MOA is terminated and prior to work continuing on the undertaking, the Agency must either (a) execute an MOA pursuant to 36 CFR 800.6; or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. The Agency shall notify the Signatories and Invited Signatory as to the course of the action it will pursue.

VII. ANTI-DEFICIENCY CLAUSE

- A. All requirements set forth in this MOA requiring expenditures of the HUD funds are expressly subject to the availability of appropriations and the requirements of the Anti-Deficiency Act (31 USC §1341).
- B. No obligation undertaken by the Agency under the name of this MOA shall require or be interpreted to require a commitment to expend funds not appropriated for a particular purpose.

Execution of this MOA by the Agency, the SHPO, and the Owner and implementation of its terms evidence that the Agency has considered the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

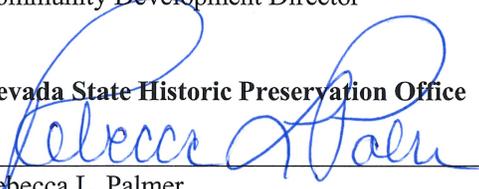
City of Reno

Aric Jensen
Community Development Director

 09.15.2017
Date

Nevada State Historic Preservation Office

Rebecca L. Palmer
State Historic Preservation Officer

 09/15/17
Date

INVITED SIGNATORY:

Steamboat by Vintage, LP

Ryan Patterson
Vintage Housing

Date

CONCURRING PARTIES:

Washoe Tribe of Nevada and California

Neil Mortimer
Chairperson

Date

Reno-Sparks Indian Colony

Arlan D. Melendez
Chairperson

Date

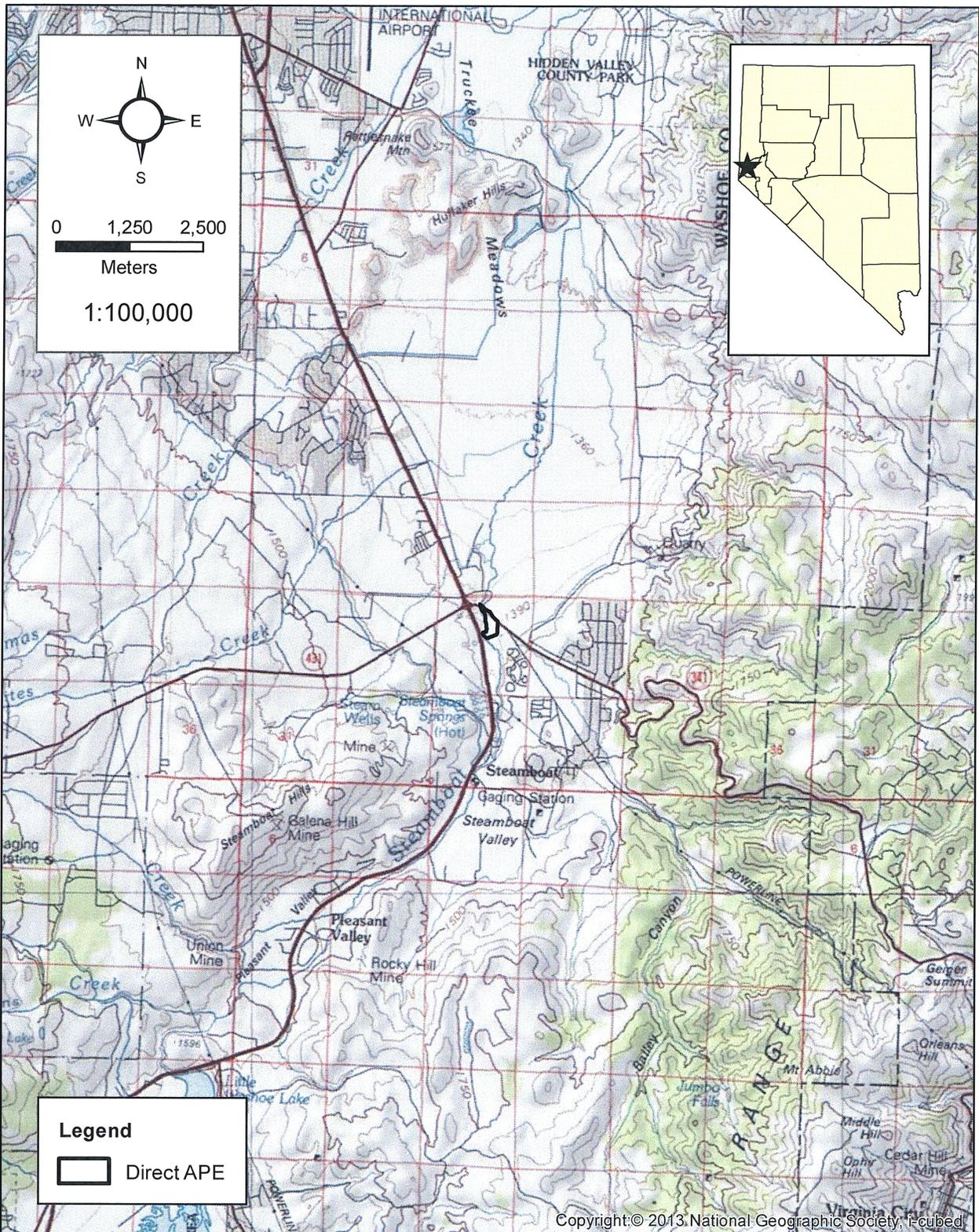
Pyramid Lake Paiute Tribe

Vinton Hawley
Chairperson

Date

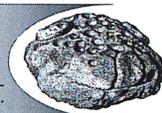
Attachment 1

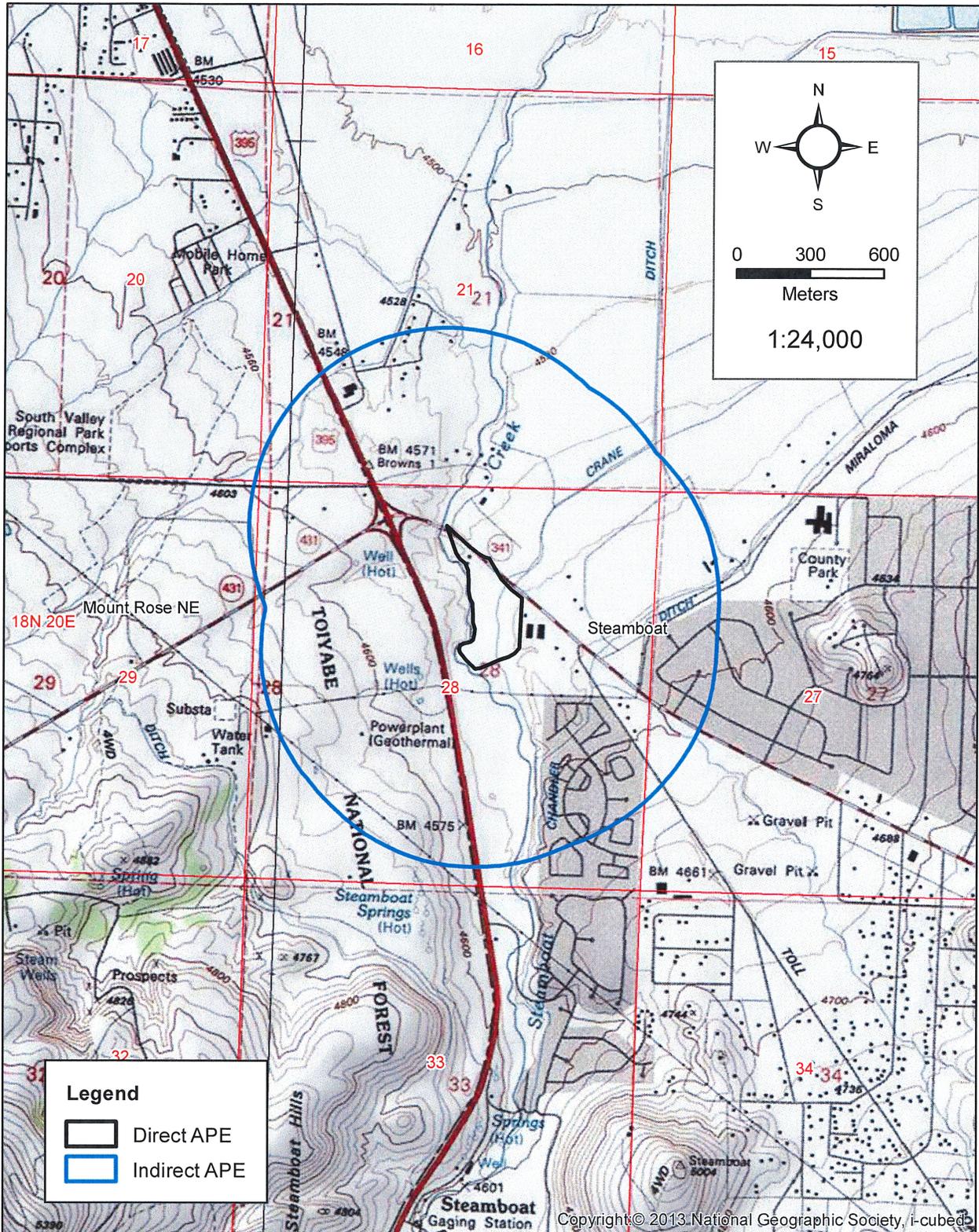
Project Maps



Attachment 1: Figure 1.1 - Project Vicinity Map
 Base Map: USGS 1:100,000 Carson City, Nev., 1979.
 T.18N., R.20E., Section 28, Datum (NAD 83, meters)
 Project: Steamboat at the Summit Apartments Project in
 Washoe County, Nevada

kautz
 ENVIRONMENTAL CONSULTANTS, INC.





Attachment 1: Figure 1.2 - Project Area Map
 Base Map: USGS 7.5' Steamboat, Nev., 1994. T.18N., R.20E., Section 28, Datum (NAD 83, meters)
 Project: Steamboat at the Summit Apartments Project in Washoe County, Nevada

