

**SHORT-TERM LICENSE AGREEMENT FOR ROAD USE, MAINTENANCE AND
REPAIR DURING BOREHOLE DRILLING (WEST SIDE OF PROJECT)**

This SHORT-TERM LICENSE AGREEMENT FOR ROAD USE, MAINTENANCE AND REPAIR (“**Agreement**”) is made and entered into as of _____, 2021 (“**Effective Date**”), by and between **WHITE PINE WATERPOWER, LLC**, an Idaho limited liability company, with offices at 800 W Main St, Ste. 1220, Boise, ID 83702 (“**Company**”), and the **CITY OF ELY, NEVADA**, whose address is 501 Mill Street, Ely, NV 89301 (hereinafter called the “**City**”).

RECITALS

A. Company is incorporated in the State of Idaho and registered to do business in Nevada. The officers of the Company are as follows: Luigi Resta (President), Matthew Shapiro (Chief Executive Officer) and Brad Margetts (Treasurer).

B. Company will be conducting preliminary geotechnical drilling and other exploration drilling activities, which shall include mobilization of personnel, equipment, and materials to support such activities (collectively, the “**Activities**”), on _____ located in Steptoe Valley, approximately five (5) miles north of the corporate limits of the City in White Pine County, Nevada (the “**Sites**”).

C. In connection with the Activities, it will be necessary for Company and its agents, employees, affiliates, contractors, subcontractors, workforce and related service companies (collectively with Company, the “**Company Parties**”) to use certain dirt roads owned or controlled by the City, as described in Section 1 of this Agreement, to: (i) transport heavy equipment and materials and (ii) transport personnel, equipment, and materials to and from the Sites, as more particularly described in the attached Appendix B.

D. The Nevada Northern Railway Foundation, Inc. (hereinafter called the “**Foundation**”), currently uses the Designated Roads for maintenance of the railroad tracks and maintains said roads for such use.

E. The Company wishes to enter into a short-term license agreement with the City for the use, maintenance, and repair of the Designated Roads, in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. **Designated Roads Owned by the City.** This agreement is exclusively for the Designated City-owned Road running parallel to the railroad tracks located between mile marker H 1.25 to H 5.3, as identified in the attached Appendix A, and shall include any authorized,

Designated Railroad Crossings that Company may need to use to access said Road (collectively, “**Designated Roads**”).

2. **License.** Company is hereby granted a revocable, non-recordable, non-exclusive license for the right to use the Designated Roads.

3. **Obligations of the City.** Under this Short-Term License Agreement, the City shall have no covenants, obligations, representations, or warranties.

(a) **No Warranty.** The Company and/or Company Parties acknowledges and agrees that City does not make, and the Company has not relied on, any representations or warranties, express or implied, statutory or otherwise, regarding any matter, including any implied warranties or conditions of quality, workmanship, safety, legal compliance or fitness for a particular purpose, of the Designated Roads and their use, maintenance, repair, or otherwise.

4. **Use of Designated Roads by Company.** The Company may use the Designated Roads at any time, seven (7) days a week during the term of this Agreement, subject to Section 6 of this Agreement. Such use may include the transportation of personnel, equipment, and materials to and from the Sites. The City hereby acknowledges and approves that the Company will need to travel along and cross the Designated Roads with heavy construction equipment during its Activities at the Sites. Company and Company Parties are not to exceed the 15 MPH speed limit on the Designated Roads in order to minimize damage, maintenance and/or repairs to the Designated Roads.

5. **Use of Designated Railroad Crossings.** The Company acknowledges and agrees that it will only use authorized, Designated Railroad Crossings, subject to Section 6 of this Agreement, and that any unauthorized use of a Designated Railroad Crossing or the crossing of the railroad tracks at any unauthorized location, at any given time, may result in the termination of this agreement.

6. **Non-Exclusive Use.** The Company acknowledges and agrees that nothing in this Agreement shall be construed or interpreted as granting to Company any exclusive rights or privileges over the Designated Roads, or any use thereof, to the exclusion of the City, the Foundation, or any other third parties. The Company further acknowledges and agrees that the City and the Foundation has a superior right to the use of the Designated Roads and that Company must yield to the City’s and/or Foundation’s use of said roads.

7. **Notice of Commencement of Work.** Company shall provide the City and the Foundation with prior notice of the date on which the Company intends to commence use of the Designated Roads for the Activities. Notice for purposes of this Section must be provided by both telephone and e-mail.

8. **Evaluation of Road Condition.** Prior to commencement of Company’s use of the Designated Roads for the Activities, and to establish the initial, existing condition of such Designated Roads and surrounding railroad tracks, the Company shall provide an Initial

Evaluation of the Designated Roads and surrounding railroad tracks to the City and the Foundation. If the City does not give written notice of any objection to the completeness and accuracy of the Initial Evaluation within five (5) calendar days after receipt, the Initial Evaluation shall be deemed accepted by the City. Any objection to the Initial Evaluation by the City shall prohibit use of the Designated Roads by the Company until the Initial Evaluation can be agreed upon by both parties. The costs of all Initial Evaluations will be borne by the Company. Any evaluations of the Designated Roads other than Initial Evaluations that are reasonably requested by either City or Company shall be conducted upon mutual agreement of the City and Company, and exclusive of the unilateral Final Inspection and Final Approval (as such terms are defined in Section 13 below) of the Designated Roads by the City.

9. **Maintenance of Designated Roads.** Company shall be responsible for maintaining all Designated Roads during Company's use of the Designated Roads under this Agreement; including regular dust abatement, grading and repairs, as needed. All maintenance activities associated with use of the Designated Roads by Company for the Activities shall be performed by the Company or a contractor approved by the City, and shall be performed to the satisfaction of the City, as the City may determine in its sole discretion. The costs and expenses of all maintenance shall be borne by the Company.

10. **Repair of Designated Roads, Crossings, or Railroad Tracks.**

(a) Company shall be responsible for repairs for damage caused by Company during its use of the Designated Roads for the Activities at no cost to the City or the Foundation. All repairs shall restore the Designated Roads and/or surrounding railroad tracks to the condition they were in as stipulated to in the Initial Evaluation.

(b) Company shall immediately notify (within one (1) business day) the City and the Foundation (by both telephone and email) of damage requiring repairs pursuant to Section 10 (a).

(c) **Repairs to Designated Roads.** If Designated Roads are damaged, the Company shall be responsible for performing the repairs or hiring a contractor approved by the City to perform the repairs, and the repairs shall be performed to the satisfaction of the city and in accordance with the City's standard practices for road repairs and otherwise having due regard for safety, prevailing and predicted weather conditions, and the presence of emergency conditions.

(d) **Repairs to Surrounding Railroad Tracks.** If surrounding railroad tracks are damaged by the Company, the City and/or the Foundation will perform the repairs or hire a contractor to perform the repairs. The Company shall reimburse in full the City and/or Foundation for the reasonable costs of such repairs.

(e) **Timing of Repairs.** All initial repairs required pursuant to this Agreement must be completed by the Company within five (5) days of the expiration of the Term or, if the City has rejected the Final Inspection and not provided its Final Approval, within five (5) days of notice from the City of such rejection.

11. **Term of Agreement.** The term of this Agreement shall be from the Effective

Date until November 1, 2021, unless City or Company terminates this Agreement earlier as herein provided. Company shall inform City and Foundation if it's drilling permits have been extended past November 1, 2021, at which time City may entertain, but shall not be obligated to agree to, an extension of this Agreement. Unless the parties specifically agree in writing to an extension, the Agreement terminates upon the expiration of the Term of Agreement. All of Company's obligations shall survive termination of this Agreement.

12. **Termination by the Parties.** Company and City shall have the right at any time during the Term to terminate this Agreement for any reason effective upon five (5) days written notice to the other party, and in all circumstances subject to the Final Inspection, Final Repairs and Final Approval by City that the Designated Roads and surrounding Railroad Tracks are in satisfactory condition.

13. **Final Inspection and Approval.** The City and Company shall conduct a final inspection of all Designated Roads within a reasonable time after all required rehabilitation has been done by the Company and the Company has provided notice to the City that such rehabilitation has been completed. (the "**Final Inspection**"). The Company shall not be released from its obligations under this Agreement until the City, after the Final Inspection, has given its final approval, in its sole discretion, of the condition of the Designated Roads, surrounding railroad tracks, adjacent areas, and each part thereof, which shall have been rehabilitated to a condition better than or equal to the condition as specified in the Initial Evaluation (the "**Final Approval**").

14. **Nature of Relationship.** The status of Company under this Agreement shall be that of an licensee on land and not that of an agent, and in accordance with such status, City, Company and its officers, agents, employees, representatives, servants, and Company Parties shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives, or servants of the other. City, Company and Company Parties each accepts full responsibility for providing to its employees all statutory coverage for worker's compensation, unemployment, disability, or other coverage required by law. Notwithstanding the foregoing, it is not the City's or Company's intention to establish a relationship whereby the City is, and notwithstanding anything to the contrary in this Agreement the City shall not be, a contractor of Company and/or Company Parties. In regards to the use, maintenance and/or repairs of the Designated Roads, the Company's primary obligation to and relationship with City, shall be to properly use, timely notify and timely maintain and repair said Roads, in accordance with this Agreement.

15. **Fee for Use of Designated Roads by Company.** Company shall pay to the City, as consideration for the use of the Designated Roads, Seven-Hundred Dollars (\$700.00) for each day that it uses the Designated Roads. Each payment is due on the date of use. Failure to pay within five (5) days from the date of use may result in late fees equal to one and one-half percent (1 1/2%) on all amounts due.

16. **Performance Bond.** Concurrently with execution of this Agreement, Company shall deliver to City a performance bond in the amount equal to \$ _____.

guaranteeing full and faithful performance of all undertakings and obligations under this Agreement for the Agreement term and all extensions thereof. The Company shall provide the bond in its proper form no later than the effective date of this Contract. Failure to provide the performance bond prior to the deadline as required shall result in contract termination. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Company promptly and faithfully performs all terms and conditions of this Agreement.

17. **Indemnification**. The Company shall indemnify and hold harmless the City and Foundation, to include their respective directors, members, officers, and employees, representatives, attorneys, from and against all losses, damages, liabilities, and expenses, including reasonable attorneys' fees and court costs, to the extent caused by or arise out of use of or performance of work upon Designated Roads by Indemnifying Party.

18. **Choice of Law**. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Nevada, without giving effect to the principles of conflict of laws.

19. **Condition Precedent to City's Execution**. As a condition precedent to the City's execution of this Agreement, the Foundation must first approve of this Agreement. If this Agreement is executed by the parties without the Foundation's approval, it shall be void.

20. **Choice of Jurisdiction and Venue**. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought in the Seventh Judicial District Court of the State of Nevada in the County of White Pine. Each party consents to the jurisdiction of such Nevada court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such Nevada court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedure or local rules.

21. **Damages Limitation**. The City shall not be liable for consequential, incidental, punitive, exemplary, or indirect damages and all such damages are hereby excluded and waived by the Company with respect to this Agreement.

22. **Notices**. Unless otherwise designated herein, any notice required or permitted by this Agreement must be in writing and must be delivered to the recipient in person, by courier, by certified mail, return receipt requested, or by overnight delivery service. A notice given under this Agreement is effective on receipt by the Party receiving it. All notices to be sent to a Party must be sent to or made at the address given for that Party below the signature hereto or to such other person or address as a Party may previously have notified all other Parties pursuant to the provisions of this Section 15. Company must immediately notify City of any change(s) to Company's address, email, telephone and/or other contact information.

23. **Assignment**. Company shall not, without the consent of the City, assign this Agreement or any or all of its rights, interests, or obligations under this Agreement.

24. **Severability.** In the event that any clause, provision, or remedy in this Agreement shall, for any reason, be deemed invalid or unenforceable, the remaining clauses and provisions shall not be impaired, invalidated, or otherwise affected and shall remain in full force and effect. If one or more provisions of this Agreement are held to be unenforceable under applicable law, City and Company agree to renegotiate each such provision in good faith. In the event that the City and Company cannot reach a mutually agreeable and enforceable replacement for any such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

25. **Amendments and Waivers.** No amendment to this Agreement will be effective unless it is in writing and signed by the City and Company. No failure or delay on the part of City or Company in the exercise of any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or of any other right.

26. **Sole Agreement.** This Agreement, including the Appendices hereto, constitutes the entire understanding of the City and Company with respect to the subject matter hereof, and supersedes all prior or contemporaneous statements or agreements, whether oral or written, between the City and Company with respect to such subject matter.

IN WITNESS WHEREOF, the Company and City have caused their authorized representatives to execute this Short Term License Agreement for Road Use, Maintenance and Repair, effective as of the date first above written.

COMPANY:

WHITE PINE WATERPOWER, LLC

By: _____

Name: Luigi Resta

Title: President

Address: 800 W Main St, Ste. 1220
Boise, ID 83702
Attention: Luigi Resta
Email: lresta@rplusenergies.com
Copy to: legal@rplusenergies.com
Tel: (415)602-2569

CITY:

CITY OF ELY

By: _____

Name:

Title:

Address:

501 Mills Street

Ely, Nevada, 89301

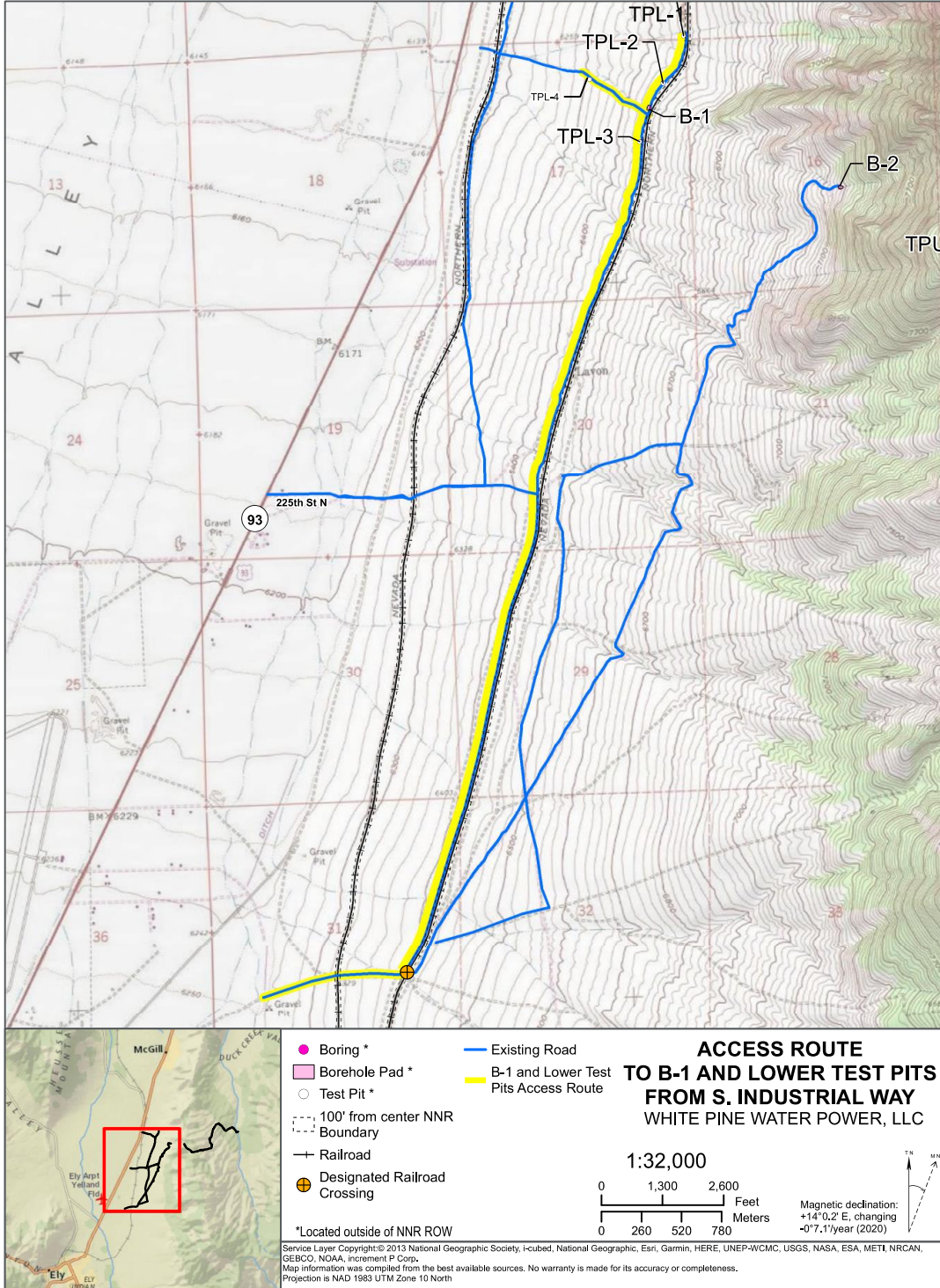
Email:

Copy to: attorney@cityofelynv.gov

Tel:

APPENDIX A

DESIGNATED ROADS



APPENDIX B

ANTICIPATED USE

<i>Vehicle Type</i>	<i>Size/Weight</i>	<i>Frequency of Road Use</i>	<i>Trips per day</i>
Commercial Semi trucks delivering equipment and supplies	10k lbs to 80k lbs	At commencement through completion of the Activities	5
Passenger Vehicles F150, F350, Etc.	10k lbs	Daily	20
Water Trucks	10 wheel Freightliner/60k lbs	Daily	10