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Assessor's Parcel Number: 1220-09-601-027

Recording Requested By:

Name: Gardnerville Town Water Company

✓ Address: 1579 Virginia Ranch Road

City/State/Zip Gardnerville/Nevada/89410

Real Property Transfer Tax: \_\_\_\_\_

Doc Number: **0830697**

09/17/2013 11:26 AM

OFFICIAL RECORDS

Requested By:  
GARDNERVILLE WATER COMPANY

DOUGLAS COUNTY RECORDERS  
Karen Ellison - Recorder

Page: 1 of 6      Fee: \$ 19.00  
Bk: 0913 Pg: 3387



Deputy: gb

Annexation Agreement  
(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

ANNEXATION AGREEMENT

This agreement is made this 16 day of September, 2013, by and between the Gardnerville Town Water Company, Inc., d.b.a. Gardnerville Water Company, herein referred to as "the Utility," and Douglas County, Nevada, a political subdivision of the State of Nevada, herein referred to as "Owner," on the following terms and conditions:

RECITALS

WHEREAS, the Utility is a non-profit Nevada Corporation with its principal place of business in Douglas County, Nevada; and

WHEREAS, the Utility is in the business of providing and delivering water within its certificated service area; and

WHEREAS, Owner owns approximately 21.20 acres of property in Douglas County, Nevada, assessor's parcel number 1220-04-601-027, herein referred to as "the Property"; and

WHEREAS, Owner intends to utilize and supply its own water for its irrigation and landscape needs from Owner's well located at Lampe Park in Gardnerville, Nevada; and

WHEREAS, Owner represents that the Property is contiguous to, but not within, the Utility's current certificated service area; and

WHEREAS, Owner desires to develop the Property, which when completed may include a senior and community center; and

WHEREAS, Owner desires to obtain domestic and fire water service for the Property from the Utility; and

WHEREAS, the Utility is prepared to provide domestic and fire water service to the Property, provided the Property is annexed into the Utility's certificated service area and all other terms and conditions prerequisite to service by the Utility are met by Owner; and

WHEREAS, the Utility's service area may only be changed with the approval of the Nevada Public Utilities Commission ("PUC"); and

WHEREAS, the Utility's Board of directors has granted Owner's request to accept a dedication of water rights in lieu of payment of a water rights fee, and to allow Owner to supply its own landscaping and irrigation water needs.

WITNESSETH

Now, therefore, the parties do agree as follows:

1. The foregoing recitals are hereby incorporated as though set forth in full herein.
2. Owner will provide the Utility with all documents, evidence and information requested by the Utility as may be necessary for the Utility to annex the Property into its certificated service area. Said items include, but are not limited to, maps, diagrams, statistics, deeds, report results, estimates and other similar items.
3. The Utility will compile and prepare such information and applications as may be necessary to obtain a modification of its certificated service area with the PUC. The Utility will submit the application(s) and related supporting material to the PUC in a timely manner. Owner will provide to the Utility all information reasonably requested by the PUC in order that the Utility's application may be timely considered.
4. Representatives of both the Utility and Owner will attend all meetings and hearings required by the PUC that are related to the application. Owner understands that annexation of the Property into the Utility's certificated service area is subject to the approval of the PUC.
5. The Utility will commission and/or prepare a water system model analysis and report of the Utility's affected existing and proposed infrastructure, which is required to be included with the application submitted to the PUC and also to the Nevada Bureau of Health Protection Services. The model may, in the discretion of the Utility, be done in association with other projects of other entities and, if so, costs of the modeling will be apportioned between Owner and the other project owner, in the discretion of the Utility.
6. Owner will be responsible for all costs (its own as well as the Utility's), including but not limited to engineering fees, attorney's fees, water studies, modeling, copies, application fees and any other costs or expenses related directly or indirectly to the Utility's annexation of the Property. The parties contemplate that the Utility will incur no internal or out of pocket cost or expense related to this agreement or to the annexation of the Property, all of which are the sole responsibility of Owner.
7. The Utility's estimated cost to cover the components identified in the preceding paragraph is Thirteen Thousand Dollars (\$13,000.00), receipt of which is hereby acknowledged by Utility. This is an estimate only: the Utility will reimburse any unused portion of said deposit within 30 days of the PUC's decision. Alternatively, Owner will pay the Utility any additional amounts incurred by the Utility within thirty days of demand therefore. No amounts once incurred shall be refundable to Owner for any reason.

8. Both parties will comply with all provisions of the Utility's tariff including but not limited to its Rules and Regulations, all of which Owner may inspect upon request.

9. Within ten days of the date of Utility's approval of this agreement Owner shall pay the Utility an Annexation Fee of Five Hundred Dollars (\$500.00) per acre (or portion thereof) to annex the Property into the Utility's service area. The total Annexation Fee is thus Ten Thousand Six Hundred Dollars (\$10,600.00).

10. Water Rights:

a. Owner has requested, and Utility has agreed, that Owner may utilize its own water for its exterior landscaping and irrigation requirements. This arrangement is referred to herein as "Dual Service."

b. Utility would ordinarily require Owner to pay Utility for the value of the water rights necessary to serve the entire Property based on commercial usage of 1,800 gallons per acre per day, or 47.73 acre feet, at a cost of Three Hundred Five Thousand, Four Hundred Seventy-Two Dollars (\$305,472.00) (\$6,400.00 per acre foot). However, in recognition of the Dual Service arrangement and Owner's description of its domestic water needs, Utility estimates Owner's water right need to be 3.23 acre feet.

c. In lieu of Owner's payment of the Utility's Water Right Fee as set forth in its tariff, Owner shall dedicate and transfer to Utility 3.23 acre feet of quasi-municipal ground water rights. This shall consist of all rights under Owner's water right Permit 68949, and the balance from Owner's water right Permit 68948, issued by the State of Nevada. Owner shall be solely responsible for all costs, fees and expenses necessary to transfer said rights to Utility, including but not limited to engineering fees, attorney's fees, fees charged by the State Engineer or any other governmental entity, recording fees, transfer taxes and fees, and any other cost or expenses necessary to effectuate the transfer. This shall extend to all efforts necessary to change the place of the use of the water rights transferred and or the point of diversion, all as directed by Utility. This transfer shall be completed within ninety days of approval of annexation by the PUC.

d. Owner represents and warrants to Utility that the water rights to be transferred as set forth herein are in good standing with all applicable entities of the State of Nevada, and are free and clear and not encumbered or clouded in any way. Owner agrees to indemnify, defend and hold Utility harmless with regard to said water rights.

11. Because of the Dual Service arrangement each party will prepare and maintain separate and distinct service area maps related to the Property. Neither party will allow cross-connection between the systems. The parties will enter into a separate agreement to these ends, which will also provide for: periodic cross connection checks to be witnessed by representatives of each party; access to and inspection by Utility of Owner's system upon request; inclusion of distinct trace wire systems through each

party's entire system located on the property; consideration of an emergency intertie; ongoing, real time sharing of water quality testing information; Utility's ownership and maintenance of fire hydrants on the Property; dedication of easements by Owner to Utility for the inspection, repair, expansion, relocation, maintenance or replacement of its infrastructure; the use of distinguishing access covers between the two systems; placement of a stub at location to be determined by Utility to serve future development adjacent to the Property and elsewhere; and other matters incident to this agreement and service by Utility to Owner.

12. Owner agrees and acknowledges that in the event it expands, adds to or changes the use of the Property from that presently proposed, additional water needs will require the dedication and transfer of additional water rights according to the use, as well as the payment of additional fees as may be set forth in Utility's tariffs at the time of the expansion, addition or change.

13. Owner understands and agrees that inclusion into the Utility's service area only creates a right of water service to the Property. Annexation does not commit the Utility to install any infrastructure to provide water service to the Property. Following annexation and Owner's payment of all fees and costs it will remain Owner's responsibility to pay for the cost of designing, planning, permitting and constructing all infrastructure necessary to enable the Utility to serve the Property, subject to the advance approval of the Utility, as set forth in its tariffs and its Rules and Regulations. Further, Owner understands that there are Connection Fees over and above Annexation Fees and Water Right Fees and costs of infrastructure. Connection Fees are based upon the number of connections ultimately installed on the Property and will be fully determined by fixture count upon completion of construction.

14. Each party will act expeditiously and in good faith so that annexation may occur as quickly as possible.

15. This Agreement is made in and shall be governed by and interpreted according to the laws of the State of Nevada. Venue of any action shall be in Douglas County, State of Nevada.

16. In the event that the PUC fails to approve a change in the Utility's certificated service area to allow annexation of the Property, then this Agreement and all rights and obligations of the parties hereunder shall terminate and all of the per acre annexation fees shall be returned to Owner. However, Owner will remain responsible for all costs, expenses and fees incurred by the Utility or by Owner related to the annexation effort, including but not limited to those identified in paragraph 6, above. In the event of PUC denial neither party shall have any claim, action or cause of action against the other except as specifically provided in this paragraph.

17. Time is of the essence of this Agreement.

18. This Agreement has been drafted through the joint effort of the parties and shall be construed fairly and not for or against either party.

19. This Agreement constitutes the entire agreement of the parties and supersedes any prior oral or written agreements, representations or understandings between them.

20. The person signing this agreement for Owner represents that he or she has full authority to do so.

21. Should either party be required to bring suit to enforce any provision of this agreement the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

22. This agreement shall inure to the benefit of both parties' heirs, beneficiaries, grantees and assigns. However, no obligations set forth herein shall be assigned absent the signed, written agreement of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first set forth above.

GARDNERVILLE TOWN WATER CO.

By Barbara Henningson  
Barbara Henningson  
Chairman of the Board

DOUGLAS COUNTY, NEVADA

By: [Signature]  
Title: Community Serv. Director  
Print Name: Scott Morgan