



KAREN ELLISON, RECORDER

APNs: 1318-09-810-090, 1318-09-810-101
and 1318-09-810-102

Recording Requested By
And When Recorded Mail To:

Michael J. McLaughlin
Feldman McLaughlin Thiel LLP
P.O. Box 1309
Zephyr Cove, NV 89448

COMMON SEWER AGREEMENT

This Common Sewer Agreement (this "**Agreement**") is made as of the date of the last signature below by JOHN H. FINLEY and JANET M. FINLEY, Trustees of THE FINLEY FAMILY TRUST dated April 27, 2006 ("**Finley**") and MATTHEW A. LORNE and VIRGINIA E. LORNE ("**Lorne**") (collectively, the "**Parties**").

WHEREAS, Finley is the owner of certain real property located in Douglas County, State of Nevada, commonly known as 637 Freel Drive, Marla Bay, Assessor's Parcel No. 1318-09-810-090, and more particularly described in Exhibit A attached hereto and incorporated by reference herein (the "**Freel Parcel**").

WHEREAS, Finley is also the owner of certain real property located in Douglas County, State of Nevada, commonly known as 642 Job Lane, Marla Bay, Assessor's Parcel No. 1318-09-810-101, and more particularly described in Exhibit B attached hereto and incorporated by reference herein (the "**Job Parcel**").

WHEREAS, Lorne is the owner of certain real property located in Douglas County, State of Nevada, commonly known as 640 Pharris Lane, Marla Bay, Assessor's Parcel No. 1318-09-810-102, and more particularly described in Exhibit C attached hereto and incorporated by reference herein (the "**Pharris Parcel**").

WHEREAS, historically, the Freel Parcel, the Job Parcel, and the Pharris Parcel (collectively, the "**Parcels**") have enjoyed the use of a six-inch common sewer line (the "**Common Sewer Line**") that connects to the Tahoe Douglas Sewer District's ("**TDSD**") main sewer line situated beneath Freel Drive. The Parties believe the Common Sewer Line generally runs from the main sewer line along the southerly portion of the Freel Parcel, then along the westerly portion of the Pharris Parcel to the southerly boundary of the Job Parcel. The Common Sewer Line connects to a private sewer lateral on each Parcel.

WHEREAS, the TDSD maintains one account (Account No. 1318-09-810-090) (the "**Account**") for the Common Sewer Line, which account is associated by TDSD with the Freel Parcel, and TDSD issues a single quarterly billing statement for this account, which the owners of the Parcels have historically shared equally, each paying one-third (1/3) of the charges. The owner of the Freel Parcel is sometimes hereinafter referred to as the "**Account Holder**."

WHEREAS, the Parties desire to memorialize their agreement to grant reciprocal easements for the Common Sewer Line and to continue to share the expenses of the operation, maintenance and repair of the Common Sewer Line.

NOW THEREFORE, the Parties hereby agree as follows:

1. Declaration of Easements.

A. Freel Parcel. Finley hereby grants to the owners of the Job Parcel and the Pharris Parcel, and to their respective successors and assigns, a non-exclusive easement in, over, through and across the Freel Parcel for the continuing operation, maintenance and repair of the Common Sewer Line to connect to the TDSO main sewer line. The easement created pursuant to this paragraph are for the use of the owners of the Job Parcel and the Pharris Parcel and their successors and assigns.

B. Pharris Parcel. Lorne hereby grants to the owners of the Job Parcel, and to their respective successors and assigns, a non-exclusive easement in, over, through and across the Pharris Parcel for the continuing operation, maintenance and repair of the Common Sewer Line to connect to the TDSO main sewer line. The easement created pursuant to this paragraph are for the use of the owners of the Job Parcel and their successors and assigns.

C. Right of Access. Each owner shall have a right of access to the Easement Area (defined below) and have all rights of ingress and egress reasonably necessary for maintenance, repair and/or replacement of the Common Sewer Line.

D. Secondary Easements. The easements granted herein include incidental rights of construction, maintenance, repair and replacement, necessary for the grantees' continuing use and enjoyment of the Common Sewer Line.

E. Easement Area. The area of the easements granted hereunder shall extend the length of the Common Sewer Line on each parcel and a width of five (5) feet on either side of the center line of the Common Sewer Line ("Easement Area").

2. Account Payment. The owner(s) of each Parcel shall be responsible for paying one-third (1/3) of each Account invoice issued by TDSO. The Account Holder shall promptly and timely pay each invoice in full and shall provide the owners of the other Parcels with a copy of the paid invoice. The owners of the other Parcels shall each promptly pay the Account Holder for one-third (1/3) of the invoice amount upon receipt of the paid invoice. In the event an owner fails to pay his, her or its share of any TDSO invoice, an owner who has paid his, her or its share of the invoice may bring an action against the non-paying owner for breach of this Agreement or for contribution. The non-paying owner reserves all legal and equitable defenses to payment of such costs. The provisions of this Section 2 shall terminate when TDSO separately invoices each owner for their respective use of the Common Sewer Line or as otherwise provided with respect to a particular owner in Section 7, below.

3. Maintenance and Repair.

A. Common Sewer Line. Except as otherwise set forth in Section 3.C, below, the owners of the Parcels shall be and remain equally responsible for the cost of all maintenance, repair and replacement of the Common Sewer Line in good and safe condition. The owner(s) of each Parcel shall each be responsible for paying one-third (1/3) of all such costs. However, notwithstanding the foregoing, in the event maintenance, repair or replacement work is for the sole and exclusive benefit of one or two Parcels, the cost of such work shall be borne exclusively by the owners of the benefitted Parcel(s). All work on the Common Sewer Line shall be done in as expedient a manner as possible so as to cause minimal interruption with the owners' use and enjoyment of their parcels.

B. Lateral Connections. Maintenance, repair and replacement of lateral connections to the Common Sewer Line shall be the responsibility of the owner of the Parcel upon which such lateral connection appertains. Each owner shall be responsible for installation, maintenance, repair and replacement of a sewer clean out connected to such owner's lateral connection.

C. Cost of Upgrades. In the event the Common Sewer Line or any portion thereof is required to be upgraded to comply with current building codes and/or other government regulations because of an owner's activities on his, her or its Parcel (e.g., new construction or remodeling), the cost of such upgrades shall be borne solely by the owner engaging in the activity triggering the upgrades.

D. Property to Be Restored. Upon completion of any reconstruction, repair or maintenance of any improvements within the easement, the owner or owners causing the work to be done shall restore the land in good and workmanlike manner to a condition comparable to its condition before the work commenced.

E. Procedures; Remedies. If any owner determines maintenance, repairs or replacement of the Common Sewer Line is required, such owner shall provide written notice of the contemplated work to the other owners, which notice shall be accompanied by a contractor's bid describing the nature and scope and proposed schedule and cost of such work. Within five (5) business days of an owner's receipt of the written notice, the owners shall meet and confer in good faith in an effort to reach a mutually-agreeable scope and schedule for the work which results in the least disruption and interference with the owners' use and enjoyment of their Parcels. In the event an owner objects to the proposed work, the owner proposing the work shall have the right to take the necessary actions to perform the work he, she or it believes is necessary to maintain the Common Sewer Line in good and safe condition, reserving all rights to seek reimbursement from the other owners of their prorata share of the costs of such work. If any owner, successor, or assign refuses to perform or fails after demand in writing to pay the owner's proportionate share of the maintenance, repair or replacement costs approved by the other owners, an action for a specific performance or contribution may be brought against that non-performing owner by the other owners either jointly or severally. The non-performing owner reserves all legal and equitable defenses to payment of such costs.

4. Not a Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easements created herein to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this Agreement be limited to and for the purposes expressed herein.

5. Dominant and Servient Estates. The easements and rights granted or created by this Agreement are appurtenances to the real property benefited by the easements, and none of the easements and rights may be transferred, assigned or encumbered, except as appurtenances to the Parcels. For purposes of the easements and rights, the Parcel benefited will constitute the dominant estate and the easement will constitute the servient estate.

6. Covenants Run with the Land. This Agreement and each covenant and condition contained herein (whether affirmative or negative) are made for the mutual and reciprocal benefit of each Parcel and shall be deemed a covenant running with the land or an equitable servitude, as the case may be, and shall constitute benefits and burdens to each Parcel and shall be binding on the owners of each Parcel and their successors and assigns and all persons acquiring or owning any interest in any Parcel.

7. Termination. This Agreement shall terminate with respect to an owner upon such owner's (i) written notice of withdrawal from this Agreement, (ii) completion of construction of a new, private sewer line approved by TDSO connecting the owner's lateral to the TDSO main sewer line, and (iii) discontinuance of the owner's use of the Common Sewer Line. A withdrawing owner shall be obligated to pay his, her or its share of all Account invoices until each of the conditions set forth in this paragraph 7 is satisfied.

8. Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Nevada. This Agreement is entered into and is to be performed in Douglas County, Nevada, and accordingly, the Parties agree that the only appropriate venue for resolution of any dispute under this Agreement is in Douglas County, Nevada.

9. Modification. This Agreement may be modified or amended only by a written document signed by each of the Parties.

10. Attorney Fees. In the event that any litigation is commenced arising from this Agreement or binding arbitration is commenced to enforce or interpret the terms and provisions of this Agreement, the prevailing party shall be entitled to an award by the court or the arbitration panel of their reasonable attorneys' fees and costs and expenses of litigation, in addition to such other relief as may be granted by the court.

11. Time is of the Essence. Time is of the essence as to all terms and provisions of this Agreement.

12. Forbearance Not a Waiver. Any forbearance on the part of either party to this Agreement, or their successors in interest and assigns, to enforce the terms and provisions of this Agreement in the event of any violation or breach shall not be deemed a waiver of either party's legal rights regarding any subsequent violation or breach.

13. Severability. The provisions of this Agreement are intended to be severable, separate, and distinct from each other. If any provision hereof is determined to be invalid or for any reason becomes unenforceable, no other provisions shall be thereby affected or impaired.

14. Compliance with Laws. The owners shall maintain and operate the Common Sewer Line in accordance with all applicable municipal, state, and federal laws, statutes, and ordinances, as the case may be. The owners shall, when they become aware of any violation of the aforementioned regulations, expeditiously correct the violations.

15. Entire Agreement. This Agreement contains the entire agreement between the Parties relating to the rights granted and the obligations assumed herein. Any oral representations or modifications of this Agreement shall be of no force and effect unless embodied in a subsequent modification in writing signed by the party to be charged.

IN WITNESS WHEREOF, the Parties has executed this Agreement effective as of the date set forth below.

THE FINLEY FAMILY TRUST DATED APRIL 27, 2006

Dated: 5-23-18

By: John H. Finley
John H. Finley, Trustee

Dated: 5/23/18

By: Janet M. Finley
Janet M. Finley, Trustee

Dated: 5/11/18

Matthew A. Lorne
Matthew A. Lorne

Dated: 05/16/2018

Virginia E. Lorne
Virginia E. Lorne

Common Sewer Agreement

See Attached For Official Notary Wording

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

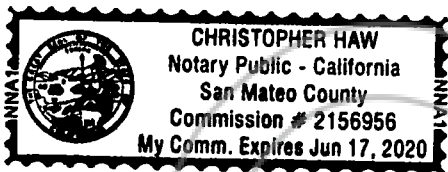
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Mateo }

On May 23, 2018 before me, Christopher Haw, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared John H. Finley & Janet M. Finley
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Common Sewer Agreement

Document Date: May 23, 2018 Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: John H. Finley

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

Signer's Name: Janet M. Finley

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN DIEGO

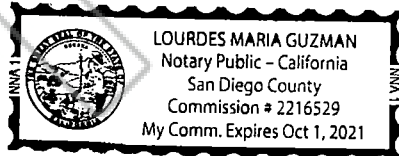
On MAY 16, 2018 before me, LOURDES MARIA GUZMAN NOTARY PUBLIC
(insert name and title of the officer)

personally appeared MATTHEW ALBERT LORNE & VIRGINIA ESPERANZA LORNE,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *LOURDES GUZMAN* (Seal)



**EXHIBIT A
LEGAL DESCRIPTION
FREEL PARCEL**

**Lot 26 Block G Amended Map of Zephyr Cove Properties #2 as per map
of said subdivision recorded with the county recorder of Douglas
County, Nevada, August 5, 1929.**

EXHIBIT B
LEGAL DESCRIPTION

JOB PARCEL

All that certain real property situate in the County of **Douglas**, State of **NEVADA**, described as follows:

A portion of Lots 27, 34 and 35 in Block G, Amended Map of Subdivision No. 2 of Zephyr Cove Properties, Inc., Marla Bay Subdivision, filed in the Office of the Douglas County Recorder, on August 5, 1929, described as follows.

Beginning at a point on the Easterly line of Lot 34, Block G, which point of beginning is 46 feet, south of the Northeast corner of said Lot 34; thence continuing South 29.19 feet to the Southeast corner of Lot 34; thence continuing along the Easterly line of Lot 35, 23.91 feet; thence Westerly along a varying line 100.87 feet to a point on the Westerly boundary of Lot 35, such point being 8 feet South of the Southwest corner of Lot 34; thence North 8 feet to said corner; thence West 10 feet to a point on the Southerly boundary of Lot 27, Block G; thence North 41 feet, parallel to the Easterly line of Lot 27; thence Easterly in a varying line, 114.28 feet across Lots 27 and 34 to the Point of Beginning.

NOTE: The above legal description appeared previously in that certain document recorded June 16, 2009, in Book 609, Page 4672, as Document No. 745221, of Official Records

APN: 1318-09-810-101

EXHIBIT C
LEGAL DESCRIPTION

PHARRIS PARCEL

All that certain real property situate in the County of Douglas, State of Nevada, described as follows:

Lot 35, Block G, as shown on the amended map of subdivision No. 2 Zephyr Cove Properties Inc., filed in the office of the County Recorder of Douglas County, Nevada, on August 5, 1929 EXCEPTING however the following described portion of said lot, to-wit:

Beginning at a point at the Northwestern corner of Lot 35, Block G of the aforesaid subdivision; thence North $53^{\circ}30'$ East along the Northwestern side of said Lot 35, a distance of 101.50 feet to the Northwestern corner of said lot; thence South $32^{\circ}00'$ East along the Easterly side of the said Lot, a distance of 23.90 feet to a point; thence South $62^{\circ}31'50''$ West along the Southerly side of the parcel, a distance of 100.87 feet to a point of the Westerly side of said Lot 35; thence North $36^{\circ}30'$ West along the Westerly side of the said lot, a distance of 8.00 feet to the point of beginning, all in Block G, as delineated and designated on that certain map entitled "amended map of subdivision No. 2 Zephyr Cove Properties Inc." filed for record in the office of the County Recorder of Douglas County, Nevada.