

**Recorder's Office Cover Sheet**

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**Department:** PUBLIC WORKS



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KAREN ELLISON, RECORDER

**Type of Document: (please select one)**

- Agreement**
- Contract**
- Grant**
- Change Order**
- Easement**
- Other**      **specify:** \_\_\_\_\_

NO. 2020.1147-13-20

DATE

DOUGLAS COUNTY CLERK  
MINDEN, NV**SETTLEMENT AND RELEASE AGREEMENT**BY  DEPUTY

**THIS SETTLEMENT AND RELEASE AGREEMENT** ("Settlement Agreement") is entered into as of the 7<sup>th</sup> day of July, 2020, by and between DOUGLAS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA ("County"); GENOA SPRINGS, LLC., A NEVADA LIMITED-LIABILITY COMPANY ("Genoa Springs"); AND MOUNTAIN MEADOW ESTATES, LLC, A NEVADA LIMITED-LIABILITY COMPANY ("MME"). County, Genoa Springs and MME are collectively referred to herein as the ("Parties.")

**RECITALS**

**WHEREAS**, the County owns, operates and maintains water system improvements pursuant to NRS 244.157 and 318.144 (the "Water Utility"); and

**WHEREAS**, in 2005, the County entered into a Water and Sewer Facilities Agreement (Recorded as Document No. 641489) with various landowner developers, and the agreement pertained to the development of real property that was associated with the Sierra Nevada Golf Ranch and is generally located along Jacks Valley Road, north of Genoa ("2005 Agreement"); and

**WHEREAS**, the 2005 Agreement was subsequently amended in 2006 by Amendment No. 1 (Recorded as Document No. 694457); and

**WHEREAS**, the 2005 Agreement, as amended, contemplated three distinct categories of development: Single Family Residences ("SFR"), a Tourist Commercial Area, and the golf course with support facilities; and

**WHEREAS**, the Tourist Commercial Area was defined as an area consisting of approximately 35.85 acres, and was then identified as Parcel No. 1419-26-002-001 and commonly referred to as Parcel 14, the boundaries of which were defined in a 1996 Record of Survey for Boundary Line Adjustment (Recorded as Document No. 403935) ("Parcel 14"); and

**WHEREAS**, the boundaries of Parcel 14 were subsequently adjusted and land use designations modified, but the modifications were never incorporated into the terms of the 2005 Agreement;<sup>1</sup> and

**WHEREAS**, the original owners of Parcel 14 sold and subdivided the referenced property; and

**WHEREAS**, Genoa Springs and MME each acquired portions of real property that were within the original boundaries of Parcel 14, and as to MME, a portion of its real property extends beyond the original boundaries of Parcel 14 into what was originally contemplated as Golf Course property; and

<sup>1</sup> Parcel 14 Document History: 2005 Record of Survey for Boundary Line Adjustment (Recorded as Document No. 648319); 2006 Parcel Map (Recorded as Document No. 677776); 2008 Parcel Map (Recorded as Document No. 725868); and 2012 Record of Survey for Boundary Line Adjustment (Recorded as Document No. 799211);

**WHEREAS**, the updated boundaries of Genoa Springs' properties are defined in a 2008 Parcel Map, and the boundaries of MME's properties are defined in a 2012 Record of Survey for Boundary Line Adjustment (Recorded as Document Nos. 725868 and 799211, respectively) (collectively "Current Development"); and

**WHEREAS**, the Current Development is within the service area of the County's Water Utility; and

**WHEREAS**, Genoa Springs and MME are in the process of developing their real property as subdivisions of Single Family Residences; and

**WHEREAS**, various disputes have arisen between the Parties regarding the interpretation of the 2005 Agreement and the respective rights and obligations of the Parties as set forth therein; and

**WHEREAS**, the Parties desire, without any concession or admission of liability, fault, or wrongdoing, to effect a full, complete, final, and binding settlement and compromise of any and all disputes that have been raised by the Parties, or which could have been raised by the Parties, arising out of or related to the 2005 Agreement or any amendments thereto; and

**WHEREAS**, the Parties have negotiated a mutual compromise, resolution, and settlement of all disputes that have been raised by the Parties, or which could have been raised by the Parties, arising out of, or related to the 2005 Agreement or any amendments thereto; and,

**WHEREAS**, the Parties have agreed that the mutual compromise, resolution, and settlement that was reached should be memorialized in writing and signed by all Parties.

**NOW THEREFORE**, in consideration of the foregoing Recitals, the mutual understandings contained in this Settlement Agreement, and other good, valuable, and sufficient consideration, the Parties agree as follows:

1. The foregoing Recitals are true and correct.
2. Except as set forth herein, the words and phrases herein have the meanings ascribed to them in the currently in-effect Douglas County Code.
3. The 2005 Agreement contemplated water service provided by the County to Parcel 14 to serve development as defined and limited in the 2005 Agreement. Given the changes to zoning and boundary lines in the areas encompassed by Parcel 14, the Parties agree that the County's obligation to provide water service to the Current Development is and shall be limited as follows:
  - a. Water Service Connections – The County will provide, at no additional cost to Genoa Springs or MME, a maximum of 129 residential, Domestic Water Service Connections within the Current Development. Additional irrigation, Domestic Service Connections will also be allowed, at no additional cost to Genoa Springs or MME, provided however that they will be limited by the amount of water rights attributed to them under this Settlement Agreement. The residential Domestic Service Connections will be as follows:

- i. A maximum of **129** residential Domestic Service Connections, which will serve the contemplated SFRs within the Current Development. Genoa Springs will be entitled to claim **54** of the **129** Domestic Service Connections and MME will be entitled to claim the remaining **75** Domestic Service Connections.

Genoa Springs and MME understand and agree that they will each be required to obtain connection permits for all service connections, but the County's water service Connection Fees for the above referenced connections will be waived.<sup>2</sup> Any additional service connections in excess of the **129** residential, Domestic Service Connections or irrigation, Domestic Service Connections will be processed in accordance with the then applicable Douglas County Code and will be assessed all normal fees and charges.

- b. Water Rights – Subject to the conditions, below, the County will allocate a maximum of **67.7** acre feet annually of water rights dedicated under the 2005 Agreement to the Current Development. The water rights will be allocated as follows:
  - i. A maximum of **38.7** acre feet annually (afa) will be allocated to the SFRs by the County. Genoa Springs will be entitled to claim **16.2** afa, and MME will be entitled to claim **22.5** afa.
  - ii. The County has determined that it is appropriate to allocate **0.3** afa, instead of **1.12** afa, to each SFR and Genoa Springs and MME agree that this allocation is appropriate. This determination is based, in part, on the following considerations:
    - 1. The average square footage of the SFRs is approximately 2,000 and 2,500 for Genoa Springs and Mountain Meadows, respectively, and all landscaping within the Current Development is in common areas (for which there will be a separate calculation of water rights requirements).
    - 2. Although technically detached SFRs, the residences are fundamentally equivalent to Multi-Family Residences (see Douglas County Code 20.650.010(B)(10)) such as a townhome, for which the water rights dedication requirement is **0.3** afa per unit. See, Douglas County Code 20.100.040.

Based upon this analysis, the Parties mutually understand and agree the County will issue updated letters to the Nevada State Engineer that reflect the above determination and allocation and commit the County to providing such water service subject to standard terms and conditions (“Will Serve letter”). The Will Serve letters will revoke and supersede any previously issued Will Serve letters for Genoa Springs and MME's projects or their properties within the Current Development.

- iii. Genoa Springs and MME's acceptance of a cap of **38.7** afa for the SFRs is contingent upon the Nevada State Engineer's acceptance of the County's updated Will Serve letters. If the State Engineer does not

<sup>2</sup> Connection Fees are set by Resolution of the Douglas County Board of Commissioners. By way of example, the current residential Connection Fees are established by Resolution 2019R-032, Paragraph 4 and Exhibit D.

unconditionally accept the Will Serve letters, then the Parties agree that this Settlement Agreement will be voidable by any party.

- iv. A maximum of 29 afa will be allocated to irrigation or other amenities within the Current Development. Genoa Springs will be entitled to claim a maximum of 10 afa, and MME will be entitled to claim a maximum 19 afa.
  - v. The Parties understand and agree that the County will not be required to allocate any additional water rights, whether dedicated under the 2005 Agreement or otherwise, for any purpose whatsoever within the Current Development in excess of a total of 67.7 afa. Any additional water rights requirements within the Current Development (including any future need for additional water rights to satisfy water use that exceeds the allocations described in this Settlement Agreement) must be satisfied by the dedication or purchase of additional water rights, at the County's direction, by Genoa Springs or MME as applicable.
4. Consistent with the terms described above, the County's Water Utility will issue water Will Serve letters for the Genoa Springs and MME developments.
  5. The County will also issue updated sewer Will Serve letters for the Genoa Springs and MME developments discussed herein.
  6. No Admission of Liability: The Parties acknowledge and agree that this Settlement Agreement pertains to a disputed claim and does not constitute an admission of liability or responsibility for any damages that result from the dispute or any transaction or event related thereto.
  7. Mutual Releases: Upon execution of this Settlement Agreement and subject to its terms, except those obligations arising out of it, the Parties, on behalf of themselves and their predecessors, direct and indirect subsidiary corporations, affiliates, officers, directors, employees, attorneys, agents, and any other person claiming through or in their right, do hereby release, discharge, and acquit each other, their partners, officers, directors, agents, employees, successors, assigns, and insurers, any parent, subsidiary, or affiliated entity, (past, present, or future) from any and all claims, demands, costs, contracts, liabilities, objections, actions, and causes of action of every nature, whether in law or equity, known or unknown, suspected or unsuspected, that any of the Parties ever have had, now have or may claim to have against another party to this Settlement Agreement of any type, nature, or description related to the 2005 Agreement, as amended.
  8. Waiver: In executing this Settlement Agreement, the Parties hereby waive any and all statutory rights and/or benefits of every kind and nature, whether known, unknown, suspected or unsuspected, they have, or may have, under Nevada law, excluding any manufacturer warranties for materials installed at the Property by either Genoa Springs or MME, or their predecessors in interest, pursuant to the 2005 Agreement, as amended.
  9. Successors: The Parties expressly acknowledge and agree that this Settlement Agreement, together with its mutual releases, is binding upon and inures to the benefit of the heirs, executors, administrators, personal representatives, successors-in-interest, successors-in-title and assigns of the Parties. Additionally, Genoa Springs and MME each warrant and represent that they have not, prior to the date of this Settlement Agreement, assigned, transferred or otherwise devised any of their rights or obligations

under the 2005 Agreement. Further, the Parties mutually acknowledge that the water rights and connections contemplated in this Settlement Agreement are for the sole use by Genoa Springs and MME for development within the boundaries of the Current Development; except for transfers to purchasers of an SFR within the Current Development to which the water rights and Service Connections are associated, neither water rights nor Service Connections contemplated under this Settlement Agreement are transferrable to any other entity, parcel, or project.

10. Covenant Regarding Assignments: Each of the Parties represent and warrant to the other Parties that they have not heretofore (and will not in the future) assigned, transferred, or hypothecated or purported to assign, transfer, or hypothecate any debt, judgment, claim, liability, demand, action, or cause of action or any interest therein, based upon or arising out of or pertaining to or concerning or connected with any of the matters, facts, events, circumstances, or things released by this Settlement Agreement.
11. Warranty of Capacity to Execute Agreement: Each of the Parties represent and warrant that they have all the authority necessary or advisable to enter into this Settlement Agreement and no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Settlement Agreement, except as otherwise set forth herein, and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Settlement Agreement.
12. Mediation: Any controversy or claim arising out of or relating to this Settlement Agreement, or breach thereof, shall be settled by mediation. If a party fails to respond to a written request for mediation within thirty (30) days after service or fails to participate in any scheduled mediation conference, that party shall be deemed to have waived its right to mediate the issues in dispute. If the mediation does not result in settlement of the dispute within thirty (30) days after the initial mediation conference, or if a party has waived its right to mediate any issues in dispute, then any unresolved controversy or claim arising out of or relating to this Settlement Agreement, or breach thereof, shall be settled by litigation in a court of competent jurisdiction. Venue for any judicial proceedings initiated pursuant to this paragraph shall be the Ninth Judicial District Court in and for Douglas County, Nevada. The Parties agree that the prevailing party in any such dispute shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which he, she, or it may be entitled.
13. Governing Law: This Settlement Agreement and the rights and duties of the Parties will be construed in accordance with and governed by the laws of the State of Nevada.
14. Attorney's Fees: If any of the Parties must resort to legal action in order to enforce the provisions of this Settlement Agreement or must defend such a suit, the prevailing party will be entitled to recover from the other party, all reasonable attorney's fees and all costs and expenses incurred in such a suit, which costs and expenses shall not be limited to statutory costs and expenses.
15. Entire Agreement: This Settlement Agreement embodies the entire understanding among the Parties and none of the Parties will be bound by any definition, condition, warranty, or representation, other than those expressly stated in this Settlement Agreement.

16. Captions - Pronouns/construction: The titles, captions, and subheadings in this Settlement Agreement are for convenience only and are not intended, to any extent or purpose, to limit or define the text of any action or subsection, and they will not be deemed a part of the context or considered in any interpretation or construction of the Settlement Agreement. Whenever the singular or plural numbers are used or the present or past tense is used, they will be deemed to be the other as required.
17. Rule of Construction: This Settlement Agreement shall be interpreted and construed without regard to any presumption or rule requiring that it be construed against the Party causing this Settlement Agreement or any part hereof to be drafted. The headings used in this Settlement Agreement are for convenience only and shall be disregarded in interpreting the substantive provisions of this Settlement Agreement.
18. Consideration: The Parties expressly acknowledge and agree that this Settlement Agreement is supported by adequate consideration that includes, without limitation, the mutual exchange of promises as set forth in this Settlement Agreement.
19. Severability: In the event any provision or any part of any provision of this Settlement Agreement becomes void or unenforceable for any reason whatsoever, then that provision will be stricken and of no force and effect. The remaining provisions, however, will continue in full force and effect, and to the extent required, will be modified to preserve their validity.
20. Modifications: This Settlement Agreement may only be amended in a writing signed by all of the Parties.
21. Counterparts: The Parties may execute this Settlement Agreement in counterparts and all will constitute one agreement that will be binding on all the Parties.
22. Copy/Facsimile/Emailed Signatures: A copy, facsimile, or emailed signature on this Settlement Agreement shall be effective the same as an original ink signature, but the party submitting a copy, facsimile, or emailed signature agrees to replace such signature with an original ink signature within ten (10) days after a request for an original ink signature is made by any of the other Parties.
23. Further Actions: The Parties agree they will perform all necessary acts, execute and deliver all documents necessary to effectuate the terms and provisions of this Settlement Agreement.
24. Representations and Warranties: The Parties represent, warrant, and agree as follows:
  - a. They have received or had the opportunity to receive legal advice from an attorney(s) of their choosing with respect to the advisability of entering into this Settlement Agreement, the mutual releases provided in this Settlement Agreement, and the advisability of executing it.
  - b. Except as expressly stated in this Settlement Agreement, none of the Parties have made any statement or representation to any of the other Parties regarding any fact that has been relied upon by any other party in entering into this Settlement Agreement. In connection with executing this Settlement Agreement and making the settlement provided for in it, none of the Parties have relied upon any statement, representation, or promise by any of the other Parties or their attorney(s) not expressly contained in this Settlement Agreement. This Settlement Agreement is intended to be final and binding upon the Parties and effective as a full and final accord and satisfaction among them regardless of any claims of fraud, misrepresentation, concealment of fact,

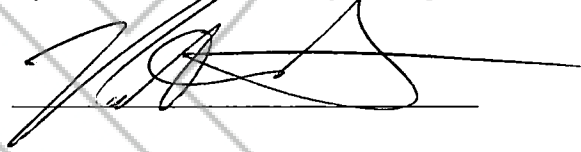
mistake of fact or law, duress or any other circumstance whatsoever. Each of the Parties relies upon the finality of this Settlement Agreement as a material factor inducing that party's execution of it. Each of the Parties agree that from the date of this Settlement Agreement, all rights and/or liabilities existing between or among them will arise solely out of the terms, provisions, representations, and warranties contained in this Settlement Agreement.

- c. The terms of this Settlement Agreement are contractual and are the result of negotiations among the Parties. Each of the Parties has cooperated in the drafting and preparation of this Settlement Agreement. Therefore, if any construction is to be made of this Settlement Agreement, it will not be construed against any party.
- d. Each of the Parties has carefully read this Settlement Agreement and they understand and know its contents. Each of the Parties has freely signed this Settlement Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Settlement Agreement as of the date set forth above.

**DOUGLAS COUNTY, NEVADA**

By: Patrick Cates, County Manager




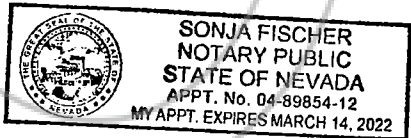
**GENOA SPRINGS, LLC**

By: Richard K. Gardner, Manager



STATE OF NEVADA     )  
                                  )  
COUNTY OF DOUGLAS    )

This instrument was acknowledged before me on by Richard K. Gardner as Manager of Genoa Springs, LLC, a Nevada limited liability company.

  
Notary Public



**MOUNTAIN MEADOW ESTATES, LLC**

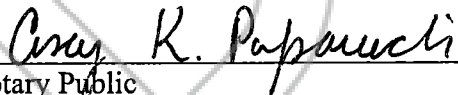
By: CARTER HILL HOMES, LLC, its  
Managing Member

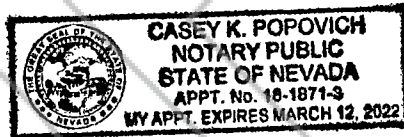
By: Brandon Hill, Manager

  
\_\_\_\_\_

STATE OF NEVADA     )  
                                  )  
COUNTY OF DOUGLAS )

This instrument was acknowledged before me on by Brandon Hill as Manager of Carter Hill Homes, LLC, a managing member of Mountain Meadow Estates, LLC, a Nevada limited liability company.

  
\_\_\_\_\_  
Notary Public

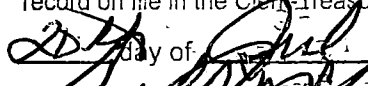

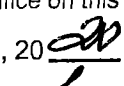



Douglas County

State of Nevada

**CERTIFIED COPY**

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

 day of , 20   
BY  Deputy