

Recorder's Office Cover Sheet

Recording Requested By:

Name Philip Ritger

Department: Public Works



00158720202209886090130134

KAREN ELLISON, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other specify: _____

8-18-2022

DATE

DOUGLAS COUNTY CLERK
MINDEN, NV**CONTRACT FOR THE PURCHASE AND SALE OF WATER RIGHTS** BY  DEPUTY

This contract is made and entered into between Douglas County, Nevada (the "County") and Howard D. McKibben and Mary Ann McKibben, as Trustees of the McKibben Family Trust created U/D/T/ June 21, 1996, and Michael J. Hayes, a married man as his sole and separate property, and Neil Andrew Thorson and Mary Jo Sampsel, as Co-Administrators of the Estate of Barbara Ann Thorson, Deceased, and William J. Crowell, an unmarried man, and Gail Ann Crowell, an unmarried woman, and Mark Allen Sampsel and Mary Jo Sampsel, as Co-Trustees of the Sampsel Family Trust dated Jun 6, 2008 (collectively the "Seller"). The County and Seller are at times collectively referred to herein as the "Parties" or individually as the "Party."

RECITALS

Whereas, Seller owns the beneficial interest in certain water rights, which are currently banked with the Town of Minden and are identified under the following permit numbers issued by the State Engineer:

Permit No.: 20.680 afa under 81135

Permit No.: 203.348 afa under 82320

(collectively "water rights"), the water rights are no longer appurtenant to any parcel; and

Whereas, the Parties previously entered into an Agreement for Transfer of Water Rights (Recorded as Document No. 216701 in 1989) (the "1989 Agreement"), which provided in part that Seller would transfer water rights to the County for future development upon a specified parcel in Douglas County, Nevada; and

Whereas, the 1989 Agreement further provided that upon final development of the specified parcel, title to any surplus water rights would revert to Seller; and

Whereas, Seller subsequently sold the specified parcel, but retained all rights and interest in the associated water rights; and

Whereas, the Parties now desire to confirm the termination of the 1989 Agreement; and

Whereas, Seller desire to sell to County and County desires to purchase the herein described water rights under the terms and conditions contained herein; and

Whereas, the Parties acknowledge that during the term of the 1989 Agreement, title to the water rights was transferred to the Town of Minden for use in a Town of Minden water well for the benefit of the County (pursuant to the County's 'Interlocal Agreement to Provide Wholesale Water Service' with the Town of Minden) and ultimately for the benefit of the Seller (pursuant to the 1989 Agreement); and

Now, therefore, in consideration of the premises and of the mutual covenants contained herein, and in Consideration of the foregoing Recitals, it is hereby agreed by and between the Parties as follows:

AGREEMENT

1. Agreement: the County agrees to purchase and acquire from Seller, and Seller agrees to sell and convey to the County, all of Seller's right, title and interest in and to the water rights subject to the terms of this Agreement.
2. Purchase Price: the County shall pay Seller Nine Thousand Dollars (\$9,000) per acre foot for each acre foot sold, for a total of Two Million, Sixteen Thousand, Two Hundred and Fifty-Two Dollars (\$2,016,252) for 224.028 Total acre feet annually. **The total purchase price will be divided into an Initial Payment of \$403,250.40, plus 4 equal installment payments of \$403,250.40. The Payments will be due annually on the following schedule:**

| | |
|-----------------|------------------------|
| October 1, 2022 | INITIAL PAYMENT |
| October 1, 2023 | Installment Payment #1 |
| October 1, 2024 | Installment Payment #2 |
| October 1, 2025 | Installment Payment #3 |
| October 1, 2026 | Installment Payment #4 |

The Initial Payment and each Installment Payment will be divided among the Sellers in proportion to their relative interests. Specifically, the payment will be divided as follows:

- **2.5%** to Michael J. Hayes
- **11.25%** to Neil Andrew Thorson and Mary Jo Sampsel, as Co-Administrators of the Estate of Barbara Ann Thorson, Deceased
- **12.5%** to William J. Crowell
- **12.5%** to Gail Ann Crowell
- **11.25%** to Mark Allen Sampsel and Mary Jo Sampsel, as Co-Trustees of the Sampsel Family Trust dated Jun 6
- **50%** to Howard McKibben and Mary Ann McKibben, as Trustees of the McKibben Family Trust created U/D/T/ June 21, 1996

3. Preliminary Title Report: The County may obtain, at its sole expense, a preliminary title report for the water rights. If, in the County's discretion, the title report reveals information that has the potential to interfere with the County's intended use of the water rights, the County may terminate this agreement upon written notice to Seller.
4. Transaction:
 - a. Title Report: Upon the execution of this agreement by both parties, the County will have 30 days within which to provide Seller written notice that it intends to terminate this Agreement due to findings in the Preliminary Title Report noted in Paragraph 3, above, or upon its determination that title (or beneficial interest) cannot be passed from Seller to County within the timelines set forth herein.
 - b. Further Assurances: In addition to the acts and deeds recited herein and contemplated to be performed, executed or delivered by the Parties, the Parties hereby agree to perform, execute and deliver, or cause to be performed, executed and delivered any and all such further documentation as may be reasonably required in order to consummate fully the transactions contemplated hereunder.

- c. Purchase Order: Upon completion of the title report review and other preliminary title clearance requirements set forth above, if the County does not intend to terminate this Agreement, County will issue to Seller a Purchase Order in the Total Amount of **\$2,016,252**, which will be payable on the schedule and in the proportions set forth in Paragraph 2, above.
 - d. Deed/Title: Unless other or additional documentation is determined to be necessary under Paragraphs 4(a & b), Seller shall, within 20 business days of receiving the purchase order, execute and record a Quitclaim Deed to convey any and all of its interest in the water rights to Douglas County. If other or additional documentation is necessary, then such Documents shall be recorded within this time period.
 - e. Invoice: Upon recordation of the documents set forth in paragraph 4(d), Seller shall submit to County an Invoice for the Initial Payment, attaching the recorded documents as justification. County shall make prompt payment. Thereafter, Seller shall annually submit an Invoice for Installment Payments upon the schedule indicated in Paragraph 2. Each Invoice shall include the appropriate mailing addresses for the payment.
 - f. Payments: County shall make the initial payment and all annual payments to the names and addresses set forth in the invoices.
5. Warranties of Seller. Seller does hereby warrant, represent, covenant that the following are true now and will be at the time of recordation:
- a. Authority: Seller has the full right and authority to enter into this Agreement and to consummate the transactions intended in this Agreement, and no other consent to do so is required.
 - b. Title to Water Rights: Seller has a beneficial interest in the water rights described herein. The water rights are free and clear of all liens, security interests, mortgages, pledges, encumbrances, ditch fees, taxes and assessments, and charges or claims of whatever nature. The water rights are in good standing with the Nevada State Engineer and have not been forfeited or abandoned, and are not subject to judgment, suit, lien, receivership, or any other encumbrance whatsoever. During the five year term of this Agreement, the County shall at its sole expense maintain all of the water rights in good standing with the Nevada State Engineer.
 - c. Judgments or Litigation. Seller has no knowledge of any outstanding judgments against Seller that would in any manner affect the consummation of this transaction or constitute any cloud upon the title to the water rights. Seller has no knowledge of any pending litigation, proceedings, or investigations, or any threats of litigation, proceedings or investigations, which might result in any cloud upon the title to the water rights, or any other material change in the value of the water rights.
 - d. Continued Cooperation. Seller shall, within reason, cooperate with County to effectuate the transactions contemplated in this Agreement including, without limitation, the execution of any documents or the taking of any action (or the restraining from taking of any action) necessary or desirable to achieve the intended results herein.
6. Effective Date: This Agreement shall become effective on the date it is last executed by the Parties hereto.

7. Miscellaneous:

- a. Waiver & Severability: If either Party, in any one or more instances fails to insist on strict performance of the other's obligations under this Agreement, that failure does not constitute a waiver of either Party's rights under the Agreement or in any way limit either party's ability to demand strict performance in the future of the obligations under the terms of the Agreement.
- b. Entire Agreement: This Agreement sets forth all the promises, agreements, conditions, warranties, and representations between the parties and is intended to be an integration of any and all agreements and understandings, oral or written, with respect to the transaction in this agreement.
- c. Amendment: Any modification of this Agreement must be in writing and signed by both Parties.
- d. Counsel: The parties acknowledge having the opportunity to be represented by the counsel of their choice with respect to the preparation, negotiation and execution of this Agreement and each party agrees that the doctrine of construing the contractual terms against the drafting party will not apply to this Agreement. Each party will bear their own costs and attorney fees associated with the terms and conditions of this Agreement.
- e. Time: Time is of the essence for this Agreement.
- f. Notice: Any written notice required pursuant to this agreement shall be made to each Party at the address provided below.

Douglas County
ATTN: Public Works Director
PO Box 218
Minden, Nevada 89423

Howard & Mary Ann McKibben
PO Box 588
Verdi, NV 89439

William Crowell
PO Box 1000
Carson City, NV 89702

Gail Crowell
PO Box 1985
Monterrey, CA 93942

Mark & Mary Jo Sampsel
3108 Moongold Ct.
Las Vegas, NV 89134

Mary Jo Sampsel, Co-Administrator of the Estate of Barbara Thorson
3108 Moongold Ct.
Las Vegas, NV 89134

Neil Thorson,
903 E. Day Rd.
Coeur d'Alene, ID 83815

Michael Hayes
350 Bouillon Rd.
Dayton, NV 89403

- g. Successors and Assigns: This agreement is binding on and inures to the benefit of the Parties and their heirs, successors and assigns.
- h. Dispute Resolution: In the event dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator mutually agreed to by the parties. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion of the court.
- i. Nonappropriation: All payments required pursuant to the Contract are contingent upon the availability of County funds. In accordance with NRS 354.626 and any other applicable provision of law, the financial obligations between the Parties will not exceed those monies appropriated and approved by the County for the Contract for the then current fiscal year under the Local Government Budget Act. The Contract will terminate and the County's obligations will be extinguished if the County fails to appropriate the necessary funding. Notwithstanding the foregoing, the County represents that (1) the County has included the funding for the total purchase price in its budget planning; (2) the Initial Payment has been budgeted for the current fiscal year; and (3) the County will take all reasonable steps to incorporate all future installment payments in its annually approved budget. If, due to unforeseen circumstances, the County is unable to appropriate sufficient funds to make an Installment Payment then, absent an agreement between the Parties to the contrary, the County's obligations hereunder will be extinguished and County will retain the fraction of the total water rights for which it has paid;¹ the County will return the remaining water rights to Seller in proportion to each seller's interest as set forth in Paragraph 2.
- j. Counterparts: The Parties may execute this Agreement in counterparts and all will constitute one agreement that will be binding on all the Parties.
- k. County Default: If the County fails to make a payment in accordance with the schedule in Paragraph 2, then Seller shall provide the County with written notice of Default.

¹ E.g. if the County has paid a total of \$18,000, it will retain 2 acre feet annually of the water rights.

- l. Termination: The County may elect to terminate this agreement upon written notice to Seller if Seller has not conveyed its interest in the water rights by November 1, 2022. Upon termination by the County, the Parties' obligations to one another under this agreement will cease, and the parties will cooperate to ensure that the water rights revert to the Seller under the 1989 Agreement, provided that the Seller is responsible for all costs for such reversion. Seller may elect to terminate this agreement for cause if the County does not cure a default (for which it has been notified in writing pursuant to subparagraph j, above) within 30 days. Upon termination by Seller, County will retain the fraction of the total water rights for which it has paid, and the County will return the remaining water rights to Seller in proportion to each seller's interest as set forth in Paragraph 2.
- m. Proper Authority: Each person signing this Agreement covenants that he or she has the proper authority and power to enter into this Agreement and bind the party to this Agreement.
- n. Governing Law: This Agreement must be construed in accordance with and governed by the laws of the State of Nevada and the parties agree that the proper venue and jurisdiction of all actions arising out of this agreement is the Court with competent jurisdiction located in Douglas County, Nevada.

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates written below.

County:
Douglas County

By: [Signature] 8/17/22
Patrick Cates, County Manager (Date)
As authorized in a public meeting on 08/04/2022

Seller
Howard McKibben and Mary Ann McKibben, as
Trustees of the McKibben Family Trust created
U/D/T/ June 21, 1996

Signature: [Signature]
Signature: [Signature]
Date: July 14, 2022

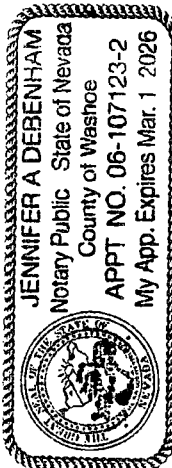
Michael J. Hayes
Signature: _____
Date: _____

STATE OF Nevada
COUNTY OF Washoe
This instrument was acknowledged before me,
a Notary Public, on the 14th day of
July, 2022 by Howard McKibben &
Mary Ann McKibben.

[Signature]
Notary Signature & Seal

STATE OF _____
COUNTY OF _____
This instrument was acknowledged before me,
a Notary Public, on the _____ day of
_____, 2022 by Michael Hayes.

Notary Signature & Seal



- l. Termination: The County may elect to terminate this agreement upon written notice to Seller if Seller has not conveyed its interest in the water rights by November 1, 2022. Upon termination by the County, the Parties' obligations to one another under this agreement will cease, and the parties will cooperate to ensure that the water rights revert to the Seller under the 1989 Agreement, provided that the Seller is responsible for all costs for such reversion. Seller may elect to terminate this agreement for cause if the County does not cure a default (for which it has been notified in writing pursuant to subparagraph j, above) within 30 days. Upon termination by Seller, County will retain the fraction of the total water rights for which it has paid, and the County will return the remaining water rights to Seller in proportion to each seller's interest as set forth in Paragraph 2.
- m. Proper Authority: Each person signing this Agreement covenants that he or she has the proper authority and power to enter into this Agreement and bind the party to this Agreement.
- n. Governing Law: This Agreement must be construed in accordance with and governed by the laws of the State of Nevada and the parties agree that the proper venue and jurisdiction of all actions arising out of this agreement is the Court with competent jurisdiction located in Douglas County, Nevada.

IN WITNESS WHEREOF, the Parties have executed this Contract on the dates written below.

County:
Douglas County

By: _____
Patrick Cates, County Manager (Date)
As authorized in a public meeting on _____

Seller
Howard McKibben and Mary Ann McKibben, as
Trustees of the McKibben Family Trust created
U/D/T/ June 21, 1996

Signature: _____

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)
This instrument was acknowledged before me,
a Notary Public, on the _____ day of
_____, 2022 by Howard McKibben &
Mary Ann McKibben.

Notary Signature & Seal

Michael J. Hayes
Signature: _____

Date: 7-21-2022

STATE OF NEVADA)
COUNTY OF LYON)
This instrument was acknowledged before me,
a Notary Public, on the 21st day of
JULY, 2022 by Michael Hayes.

Jacquelyn M. Oakden

Notary Signature & Seal

Mary Jo Sampsel, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased & as Co-Trustee of the Sampsel Family Trust dated Jun 6.

Signature: Mary Jo Sampsel
Date: 7-15-22

STATE OF Nevada
COUNTY OF Clark

This instrument was acknowledged before me, a Notary Public, on the 15th day of July, 2022 by Mary Jo Sampsel

[Signature]
Notary Signature & Seal

| |
|---|
| HAYLEY MIZE NOTARY PUBLIC STATE OF NEVADA My Commission Expires: 10-24-2022 Certificate No: 18-4535-1 |
|---|

Neil Thorson, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased

Signature: _____
Date: _____

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Neil Thorson.

Notary Signature & Seal

William J. Crowell

Signature: _____
Date: _____

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by William J. Crowell.

Notary Signature & Seal

Gail Ann Crowell

Signature: _____
Date: _____

STATE OF _____
COUNTY OF _____

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Gail Ann Crowell.

Notary Signature & Seal

^{Alan m2}
Mark Allen Sampsel, as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: Mark Allen Sampsel
Date: 7/15/22

STATE OF Nevada
COUNTY OF Clark

This instrument was acknowledged before me, a Notary Public, on the 15th day of July, 2022 by Mark Allen Sampsel
Alan m2

[Signature]
Notary Signature & Seal

| |
|---|
| HAYLEY MIZE NOTARY PUBLIC STATE OF NEVADA My Commission Expires: 10-24-2022 Certificate No: 18-4535-1 |
|---|

Mary Jo Sampsel, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased & as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

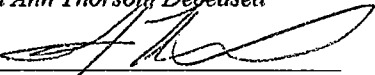
Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mary Jo Sampsel.

Notary Signature & Seal

Neil Thorson, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased

Signature: 

Date: 7/28/22

STATE OF Idaho)
COUNTY OF Kootenai)

This instrument was acknowledged before me, a Notary Public, on the 20 day of JULY, 2022 by Neil Thorson.


Notary Signature & Seal

TAWNIE J. BRADLEY
Commission Number 20190205
Notary Public
State of Idaho
My Commission Expires 11/01/2024

William J. Crowell

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by William J. Crowell.

Notary Signature & Seal

Gail Ann Crowell

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Gail Ann Crowell.

Notary Signature & Seal

Mark Allen Sampsel, as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mark Allen Sampsel

Notary Signature & Seal

Mary Jo Sampsel, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased & as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

Date: _____

Neil Thorson, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased

Signature: _____

Date: _____

William J. Crowell

Signature: [Handwritten Signature]

Date: 7/21/2022

Gail Ann Crowell

Signature: _____

Date: _____

Mark Allen Sampsel, as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mary Jo Sampsel.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Neil Thorson.

Notary Signature & Seal

STATE OF Nevada)
COUNTY OF Carson City)

This instrument was acknowledged before me, a Notary Public, on the 21st day of JULY, 2022 by William J. Crowell.

[Handwritten Signature]
Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Gail Ann Crowell.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mark Allen Sampsel

Notary Signature & Seal



Mary Jo Sampsel, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased & as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

Date: _____

Neil Thorson, as Co-Administrator of the Estate of Barbara Ann Thorson, Deceased

Signature: _____

Date: _____

William J. Crowell

Signature: _____

Date: _____

Gail Ann Crowell

Signature: Gail Ann Crowell

Date: 7-14-21

***Please see attached**

Mark Allen Sampsel, as Co-Trustee of the Sampsel Family Trust dated Jun 6

Signature: _____

Date: _____

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mary Jo Sampsel.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Neil Thorson.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by William J. Crowell.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Gail Ann Crowell.

Notary Signature & Seal

STATE OF _____)
COUNTY OF _____)

This instrument was acknowledged before me, a Notary Public, on the _____ day of _____, 2022 by Mark Allen Sampsel

Notary Signature & Seal

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 RIVERSIDE)

On 7/19/ 2022 before me, VERONICA M. CAMARILLO NOTARY PUBLIC
(insert name and title of the officer)

personally appeared Gail Ann Crowell
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] (Seal)

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

18th day of August, 20 22

By Emmy Kombarowski Deputy