



Meeting Date: 01/16/2019  
Agenda Item: #           

**Mission Statement**

To provide our growing dynamic community excellent municipal services to make Fernley a great place to live, work, and play.  
Together, we enhance the desirability, safety, friendliness, aesthetics and quality of life in our city.

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**FERNLEY CITY COUNCIL MEETING - STAFF REPORT**

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**REPORT TO:** Mayor & City Council  
**REPORT FROM:** David Rigdon, Taggart & Taggart, Ltd.  
**REPORT THRU:** Daphne Hooper, City Manager  
**REVIEWED BY:** Paul Taggart, Special City Water Attorney  
**REVIEWED BY:** Denise Lewis, Finance Director  
**AGENDA ITEM:** Possible Action to approve changes to the forms used to process and issue will-serve commitments.

**ACTION REQUESTED:** X Consent  Ordinance  Resolution  Motion  Receive/File

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**RECOMMENDED ACTION BY CITY COUNCIL**

Staff recommends the following action:

“I move to approve the proposed changes to the forms used to process and issue will-serve commitments.”

**Key Points:**

1. The current will-serve form states that the will-serve automatically expires within one year of issuance. Staff has regularly waived this requirement and allowed will-serves to be used beyond the one-year deadline.
2. The proposed change to the will-serve form will eliminate the one-year deadline. Instead cancelation will occur only if the developer fails to diligently pursue connection to utility service.
3. For developments that utilize banked water to receive a will-serve commitment, the developer will be required to execute a new assignment of beneficial interest form formally assigning the beneficial interest in the banked water to the City.

**POLICY REFERENCE**

*Nevada Statutes:* N/A

*Fernley Municipal Code:* 9.03.15, 9.07.01

*Policies & Procedure Manual:* N/A

*Community Assessment:* N/A

*Other:* *Fernley City Ordinance 2008-009, 2008-011, 2004-019; Fernley Town Ordinance 4, City of Fernley Resolution 07-004*

**SUPPORTING INFORMATION**

Developers are required to obtain from the City a will-serve commitment letter certifying that the City has agreed to provide water and sewer service to the project. To obtain a will-serve commitment letter, the developer must either dedicate to the City water rights sufficient to support the development. If the developer holds a beneficial interest in unused water rights already dedicated to and banked with the City, they can use the banked water to meet this requirement.

Currently the will-serve commitment form states that the developer is required to connect to utility service within one year or the will-serve commitment is null and void. In the past, staff has regularly waived this requirement and allowed developers to connect to utility service after the one-year deadline has passed. The new will-serve commitment letter (see attachment 1) will bring the language of the letter into conformance with actual practice. Under the new language, the will-serve commitment will not expire unless the developer fails to diligently pursue connection completion of the project. In such a case, Public Works staff will be required to provide the developer 60-days' notice before any cancelation of the will-serve becomes effective.

In addition to the changes to the new will-serve commitment letter, staff is also proposing to require a developer to formally assign to the City the developer's interest in any banked water rights used to support the issuance of the will-serve commitment. The assignment form (see attachment 2) acknowledges that the water is being used to support the issuance of a will-serve commitment and that the will-serve commitment will be an appurtenance to the property.

**FINANCIAL INFORMATION**

**FISCAL IMPACT:**

1. Is There A Fiscal Impact? No

2. Is it Currently Budgeted? No

If Budgeted, Which Line Item/Account?

**FISCAL SYNOPSIS:**

There is no financial impact.

**ATTACHED INFORMATION**

- 1) Draft Will-Serve Commitment Letter
- 2) Draft Assignment of Beneficial Interest in Water Rights to Will-Serve Commitment