

ASSIGNMENT AND ASSUMPTION OF BENEFICIAL INTEREST IN WATER RIGHTS BANKING AND DEDICATION AGREEMENT

This Assignment and Assumption of Beneficial Interest in Water Rights Agreement (the “Agreement”) is made and entered into this ____ day of _____, 20____, by and between Michael & Mandy Specchio, hereinafter referred to as “Assignor”, and Trident Plus, LLC, hereinafter referred to as “Assignee”.

RECITALS

- I. Assignor desires to convey a portion of its beneficial interest in a certain Water Rights Banking and Dedication Agreement to Assignee.
- II. Assignee desires to receive said property and formally assume the interest in said Water Rights Banking and Dedication Agreement and perform the applicable covenants and conditions contained in said Agreement.

NOW, THEREFORE, for and in consideration of the sum of Fifteen Thousand (\$15,000.00) and in consideration of the mutual covenants contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. Assignment: Assignor assigns, transfers and forever quitclaims, and does release unto the Assignee and to its heirs, successors and assigns forever, all of Assignor’s right, title and interest in and to the portion of its beneficial interest in the Water Rights Banking and Dedication Agreement by and between Assignor and the City of Fernley executed on June 7, 2006 (the “Banking Agreement”) with respect to (and solely with respect to) the following described water rights: TCID Serial No. 1052-L-3, APN 020-353-22 (Lyon County) (2.34 acre-feet). All water rights dedicated under the Banking Agreement other than the Assigned Water Rights are reserved to and for the benefit of Assignor (the “Reserved Water Rights”). A copy of the Banking Agreement and Recorded Water Rights Deed (Document #384334) conveying all of the water rights covered by the Banking Agreement (including the Assigned Water Rights and the Reserved Water Rights) to the City of Fernley are attached hereto as Exhibit “A” and Exhibit “B”, respectively, and by this reference incorporated herein.

2. Assumption. Assignee expressly assumes the Banking Agreement with respect to the Assigned Water Rights and agrees to perform all covenants, conditions, duties and obligations contained therein with respect to the Assigned Water Rights. From and after the effective date hereof, Assignee will become the “Dedicator” under the Banking Agreement with respect to the Assigned Water Rights and Assignor will remain the “Dedicator” under the Banking Agreement with respect to the Reserved Water Rights, with each party retaining responsibility under the Banking Agreement solely with respect to their respective water rights interests and credits thereunder.
3. Warranties and Representations. Assignee warrants and represents as follows:
 - a. Assignee is not prohibited under any other agreement with any other person or any judgment or decree, from the execution and delivery of this Agreement under Banking Agreement;
 - b. No action has been brought or threatened which would in any way interfere with the right of Assignee to execute this Agreement and perform all of Assignee’ obligations contained herein or any of the obligations in the Banking Agreement;
 - c. Assignee has full power and authority to consummate the transactions contemplated under this Agreement.
4. Acknowledgement. Assignee acknowledges that the Banking Agreement is in full force and effect;
5. Costs. Assignee shall pay all costs of the assumption made hereby, to include without limitation, attorneys’ fees.
6. Paragraph Headings. The paragraph headings used herein are for convenience of reference only and shall not be used in the interpretation or construction hereof.
7. Governing Law and Venue. This Agreement shall be governed, interpreted and construed by, through and under the laws of the State of Nevada in the district courts of Lyon County, Nevada.
8. Attorneys’ Fees. All costs incurred by the City of Fernley in enforcing this Agreement including, without limitation, reasonable attorneys’ fees through any court proceedings shall be paid by Assignee.

9. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.
10. Indemnification. Assignor and Assignee agree, jointly and severally, to indemnify and hold harmless the City of Fernley with respect to any claims, damages, or losses (including, without limitation, attorney's fees and costs), whether known or unknown, disclosed or undisclosed arising from, by reason of, or in connection with any part or portion of this Agreement. Assignor hereby represents and warrants it has not sold, assigned, transferred, conveyed, hypothecated, pledged, or otherwise disposed of or encumbered the beneficial interest transferred herein, or the water right underlying said beneficial interest, except as provided in this Agreement or the Water Rights Banking Agreement. Assignee acknowledges and agrees that the City makes no representation or warranty as to the title of the water rights underlying the beneficial interest transferred herein, and that in the event that any claim or dispute relating to said title renders such water rights unusable within, or unavailable to, the City's water delivery system, the City may, at its sole discretion and in addition to any other remedies provided for by law, rescind the Water Rights Banking Agreement and withhold the will-serve commitments provided for therein. In the event that such will-serve commitments have already been issued, the City, in addition to any other remedies provided by law, may require Assignor and Assignee, jointly or severally, to immediately acquire and dedicate to the City the same quantity and quality of water rights as the water rights rendered unusable within, or unavailable to, the City's water delivery system and/or the City may assign any other banked or reserved water rights in which Assignor or Assignee have a beneficial interest, and that remain uncommitted to will-serve commitments, to the will-serve commitments already issued pursuant to this Agreement or the Water Rights Banking Agreement.

[Signature pages follow]

ASSIGNEE.

Trident Plus, LLC

Alan Crawford, Managing Member
Date: _____, 2017

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of
_____, 20____, by _____.

NOTARY PUBLIC

James Lee, Managing Member
Date: _____, 2017

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of
_____, 20____, by _____.

NOTARY PUBLIC

ASSIGNOR.

Michael Specchio
Date: _____, 2017

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____.

NOTARY PUBLIC

Mandy Specchio
Date: _____, 2017

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____.

NOTARY PUBLIC

CITY MANAGER

Daphne Hooper
Telephone: 775-784-9900

DAPHNE HOOPER
DATED this ____ day of _____, 20____.

SPECIAL CITY ATTORNEY

Paul Taggart, Esq.
Telephone: 775-882-9900

I have reviewed this Assignment and Assumption Agreement and approve as to its legal form.

PAUL TAGGART
DATED this ____ day of _____, 20____.

CITY'S ORIGINATING DEPARTMENT:

Department: City Engineer

DEREK STARKEY, P.E.
DATED this ____ day of _____, 20____.

ASSIGNMENT AND ASSUMPTION AGREEMENT ACCEPTANCE AND EXECUTION:

The City Council of Fernley, Nevada, at their publicly noticed meeting of _____, 20____, approved the acceptance of this Assignment and Assumption Agreement. Further, the City Council authorizes the Mayor of Fernley, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

FERNLEY:

ROY EDGINTON, MAYOR
DATED this ____ day of _____, 20____.

ATTEST:

KIM SWANSON, CITY CLERK
DATED this ____ day of _____, 20____.