

**AGREEMENT AND RELEASE OF ALL CLAIMS (“RELEASE”)**

THE CITY OF FERNLEY (“CITY”) and DON O’GORMAN (“O’GORMAN”) hereby agree as follows: 1) For and in consideration of O’GORMAN executing the Release set out below, CITY shall allow O’GORMAN to pay in lieu of fees to secure the acquisition of will-serve commitments (“will-serves”) from CITY for up to one hundred eight (108) Equivalent Residential Connections (“ERC’s”); 2) O’GORMAN shall pay to CITY the sum of \$7,500 for each acre foot of water rights (approximately 120.96 acre feet) required to be committed by City to honor any will-serves which O’GORMAN has paid for, or has secured payment for through a letter of credit issued by a financial institution acceptable to CITY, by December 31, 2017; 3) If O’GORMAN fails to fully pay the in lieu of fees for all 108 ERC’s or secure payment for same by December 31, 2017, O’GORMAN shall forever after forfeit the ability to pay in lieu of fees to acquire any will-serves from CITY; 4) O’GORMAN shall have the ability to assign any will-serves for which CITY has been paid the in lieu of fees in full, provided that such assignment must be committed to serve lots in a subdivision located in the City of Fernley for which a valid tentative subdivision map has been approved by CITY as of the date of this agreement; 5) Any assignment of will-serves under this agreement must be completed by December 31, 2018; 6) If after December 31, 2018, there remain any uncommitted will-serves the uncommitted will-serves shall be void and City will be under no obligation to honor same; 6) If as of December 31, 2018 there remain any uncommitted will-serves, CITY shall refund to O’GORMAN the money paid by O’GORMAN for said uncommitted will-serves; 7) This Agreement and the Release set forth below shall be binding on the heirs, successors and assigns of the parties.

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FOR AND IN CONSIDERATION of the terms set forth above, O’GORMAN, hereby releases, acquits, and forever discharges CITY, including its related municipalities and public entities as well as their officers, directors, volunteers, employees, commissioners, elected or appointed officials, or board members, predecessors and successors and any and all other persons, firms or corporations which might be subject to liability, of and from any and all demands, actions, causes of action and claims for relief of every kind and nature whatsoever, known and unknown, suspected and unsuspected, anticipated and unanticipated, past, present, and future, for any alleged injury, damage or harm, including, but not limited to, lost income, wages, earning capacity, damage to reputation, embarrassment, emotional upset, and any and all claims arising out of the approval by CITY of the SILVERLAND RANCH ESTATES, SILVERLAND FARMS, SILVERLAND HEIGHTS or SILVERLAND SUBDIVISION, ( collectively referred to hereinafter as “SILVERLAND” or “SILVERLAND SUBDIVISION”) including, but not limited to, the conditions of approval of said subdivision requiring the dedication to CITY of certain land and water rights.

This Release also resolves any and all claims, that have been asserted or brought or that could have been asserted or brought by O’GORMAN for the return of any water rights or land dedicated to CITY as part of the approval of the SILVERLAND SUDIVISION..

Without limiting the effect of this Release, it is understood and agreed that this Release includes all purported claims for relief and causes of action averred to, or which could have been averred to as relates to the approval of the SILVERLAND SUBDIVISION by CITY, including any administrative or legal claims that be brought. It is further understood that this Release includes any and all claims which could have been filed in any court of law asserting federal and/or state claims or causes of action relating to the facts of this matter. This Release does not waive any rights which may accrue to O’GORMAN from the date of this Agreement and Release forward.

It is further understood that this Release is not be construed as an admission of liability on the part of said CITY, including its related municipalities and public entities as well as their officer, directors, volunteers, employees, commissioners, elected or appointed officials, or board members, predecessors and successors as well as its agents, servants, attorneys and any and all other persons, firms, or corporations, such liability being expressly denied. The undersigned understands that CITY denies each, every, and all allegations which could be brought by O’GORMAN, his heirs, successors or assigns or by any entity having any interest in the SILVERLAND SUBDIVISION.

O’GORMAN expressly covenants and agrees to indemnify, defend and hold harmless the parties herein released from any and all losses, claims or expenses which arise as a result of the assertion of any claim purportedly or potentially released herein. O’GORMAN further understands and agrees that in the event of any breach of this agreement, the prevailing party in any action to enforce this agreement will be entitled to an award of reasonable attorney’s fees and costs.

O’GORMAN specifically recognizes and accepts the risk of the possible existence of a presently unknown and unanticipated injury, harm or damage resulting which may be discovered after the execution of this Release and/or the possibility that a known injury, damage, harm or loss may be or become more serious than now expected.

O’GORMAN further covenants and agrees that this Release is a release in good faith, with full knowledge of the facts and circumstances relating to the approval by CITY of the SILVERLAND SUBDIVISION and the expiration of any approvals thereof.

O’GORMAN states that he has carefully read the foregoing Agreement and Release in its entirety, has been given an opportunity to confer with an attorney of his choice, and knows and understands the contents thereof and signs the same as his own free act.

The parties agree that although this Agreement and Release has been prepared by counsel for CITY, all parties have had an opportunity to thoroughly review same, and each has been advised of an opportunity to retain an attorney. As such, by executing this Agreement and Release, each party agrees that the Agreement and Release shall not be construed against any other based upon any claim that the Agreement and Release was prepared by attorneys for CITY, or that O’GORMAN has been prejudiced thereby.

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IN WITNESS WHEREOF, the undersigned has executed this Release as a  
compromise of a disputed claim this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DON O’GORMAN

STATE OF NEVADA     )  
                                  )  
CITY OF FERNLEY     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared before  
me, a Notary Public, DON O’GORMAN, known to me to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

IN WITNESS WHEREOF, the undersigned has executed this Release as a compromise of a disputed claim this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DAPHNE HOOPER  
As authorized representative for the City of Fernley

STATE OF NEVADA     )  
                                  )  
CITY OF FERNLEY     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me, a Notary Public, DAPHNE HOOPER, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

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