

Item # 3-4B

**Carson City Board of Supervisors
Agenda Report**

Date Submitted: December 19, 2008

Agenda Date Requested: January 5, 2009

Time Requested: Consent Agenda

To: Mayor and Supervisors

From: Public Works

Subject Title: Action to approve and authorize the Mayor to sign an agreement between William Henry Thomas and Jenice Floyd Thomas as Trustees of the Jenice and William Thomas – 1995 Trust dated 4/25/1995, and Carson City in accordance with the Board of Supervisors decision made at the September 15, 2005 Board Meeting in regards to the negative influence on the domestic wells by the City's new well located on Foothill Road near Winnie Lane.

Staff Summary: Staff is asking that the Board of Supervisors approve the agreement between William Henry Thomas and Jenice Floyd Thomas as Trustees of the Jenice and William Thomas – 1995 Trust dated 4/25/1995, and Carson City for permission to construct outside of right-of-way necessary to meet the requirements of a customer service connection and abandonment of a domestic well for a cost of approximately \$6,747.

Type of Action Requested: (check one)

☐ Resolution

☐ Ordinance

☒ Formal Action/Motion

☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve and authorize the Mayor to sign an agreement between William Henry Thomas and Jenice Floyd Thomas as Trustees of the Jenice and William Thomas – 1995 Trust dated 4/25/1995, and Carson City in accordance with the Board of Supervisors decision made at the September 15, 2005 Board Meeting in regards to the negative influence on the domestic wells by the City's new well located on Foothill Road near Winnie Lane.

Explanation for Recommended Board Action: In order to finalize the construction of the Orchard Road Water Line project permission to construct outside of right-of-way was required.

Applicable Statue, Code, Policy, Rule or Regulation: Nevada Revised Statutes relating to the purchase of real property.

Fiscal Impact: \$6,747.00.

Explanation of Impact: The amount of the agreement is construction costs only for the installation of the customer service line and closure of property owner's existing well.

Funding Source: Water Fund

Alternatives: Do not approve the recommended action.

Supporting Material: Agreement to Provide Water Service

Prepared By: Kim Belt, Capital Program Manager

Reviewed By:

(Public Works Director)

(City Manager)

(District Attorney)

(Finance Director)

Date:

12/23/08

Date:

12/23/08

Date:

12/23/08

Date:

12/23/08

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

3) _____

4) _____

5) _____

(Vote Recorded By)

Ptn APN 007-572-07

AFTER RECORDING RETURN TO:

KIM BELT
CARSON CITY PUBLIC WORKS
3505 BUTTI WAY
CARSON CITY, NV 89701
Ptn. Of APN 007-572-07 (FORMERLY 008-072-38)

AGREEMENT TO PROVIDE WATER SERVICE

THIS AGREEMENT, made this 7th day of November, 2008 between William Henry Thomas and Jenice Floyd Thomas as Trustees of the Jenice and William Thomas – 1995 Trust dated 4/25/1995, hereinafter called the OWNER, and CARSON CITY, NEVADA, A CONSOLIDATED MUNICIPALITY, hereinafter called the CITY,

WITNESSETH:

1. The OWNER, for and in consideration of the covenants as hereinafter provided agrees as follows:

(a) To permit the CITY or its authorized agents, assignees and contractors to enter in and upon OWNER'S lands, APN 007-572-07, as required to fulfill CITY's obligations under this agreement.

(b) To be responsible for the maintenance, repair and liability of the "Customer Service Connection", as referred to in paragraph 2(b) of this agreement, which consists of the pipe and appurtenances between the proposed water meter and the OWNER's plumbing.

(c) To hold harmless CITY for any damages suffered by OWNER, any future owners or assignees due to the water program implemented by CITY.

2. The CITY, in consideration of the promises and covenants of the OWNER herein set forth, agrees as follows:

(a) At its sole cost and expense, will construct or have constructed all the "Public Main" which consists of the water pipes and appurtenances, up to and including the water meter, to provide potable water service to parcel APN 007-572-07. The water line will be constructed in accordance with CITY standards and will include all necessary valves, fittings, fire hydrants required as part of regular water main extension. The City will be responsible for repair and maintenance of the "Public Main".

(b) At its sole cost and expense will construct or have constructed "Customer Service Connection", consisting of the connection between the "Public Main", at the customer side of the proposed water meter, and the structure to serve OWNER's property provided, that at the time of connection, the service is for one single family dwelling and associated facilities. CITY will pay the cost for "capping" OWNER's well to State of Nevada standards. The City will not be responsible for future repair, maintenance or liability of the "Customer Service Connection" after the initial installation.

(c) To waive the water connection fees for a period of 10 years from the date of this agreement should OWNER elect to not have the connection described in Section 2 (b) above completed immediately.

(d) To the extent provided by law, including but not limited to the provisions of Nevada Revised Statutes Chapter 41, the CITY agrees to indemnify and hold harmless OWNER from and against any liability arising out of the exercises and the rights granted pursuant to this agreement proximately caused by any act or omission of the CITY, or its officers, agents, assignees and employees.

(e) To leave that portion of said tract of land upon which entry is required in as neat and presentable condition as existed prior to such entry, with all fences, structures and other property belonging to the OWNER, which the CITY may find it necessary to remove or relocate in order to reconstruct said driveway, to be replaced as nearly in their original condition and position as is reasonably possible.

3. It is mutually agreed and understood by the CITY and by the OWNER as follows:

(a) The purpose of this agreement is to off-set any damage that may be done to OWNER or OWNER's property due to the development of CITY's water supplies.

(b) This agreement satisfies all OWNER's claims, no further claim will be made against CITY and OWNER waives any future right to any claims related to the development of the CITY's water system.

(c) If OWNER or CITY fails, neglects, or refuses to do or perform any act or thing herein covenanted and agreed to be done or performed, such failure, neglect, or refusal will constitute a default breach of this Agreement. If OWNER or CITY fails, neglects, or refuses to cure the default upon the request of the other party, such other party, at its option, may correct such default and thereupon recover from the other party the cost thereof or may require the specific performance by the other party of all terms, conditions, and covenants of this agreement. The foregoing will be in addition to and exclusive of any other remedy now or hereafter provided by law, and the pursuit of any right or remedy will not be construed as an election.

(d) The illegality or invalidity of any provision or portion of this agreement shall not affect the validity of any remaining provision.

Ptn APN 007-572-07

(e) The laws of the State of Nevada shall be applied in interpreting and construing this Agreement.

(f) This agreement shall constitute the entire contract between the parties hereto, and no modification hereof shall be binding unless endorsed hereon in writing.

(g) All property descriptions are approximate and subject to slight adjustment as necessary to meet construction requirements.

(h) All covenants and agreements herein contained shall extend to and be obligatory upon the heirs, executors, administrators, successors and assigns, as the case may be, of the respective parties.

(i) As used herein the term OWNER shall include the plural as well as the singular, and the feminine as well as the masculine and the neuter.

IN WITNESS WHEREOF the parties hereto have executed this agreement the day and year first above written.

William Henry Thomas 11/7/08
Date

William Henry Thomas,
Trustee of the Jenice and William Thomas –
1995 Trust dated 4/25/1995

STATE OF Nevada)
COUNTY OF Carson) SS.



This instrument was acknowledged before me on November 7th, 2008,
by William Henry Thomas, Trustee of the Jenice and William Thomas – 1995 Trust dated 4/25/1995.

Lucinda L. Harasti
NOTARY PUBLIC

Jenice Floyd Thomas 11/7/08
Date

Jenice Floyd Thomas
Trustee of the Jenice and William Thomas –
1995 Trust dated 4/25/1995

STATE OF Nevada)
COUNTY OF Carson) SS.



This instrument was acknowledged before me on November 7th, 2008,
by Jenice Floyd Thomas, Trustee of the Jenice and William Thomas – 1995 Trust dated 4/25/1995.

Lucinda L. Harasti
NOTARY PUBLIC

CITY:

REVIEWED AND RECOMMENDED BY:

Kim Belt 12/19/08
Kim Belt Date
Capital Program Manager

APPROVED FOR LEGALITY AND FORM:

Carson City District Attorney Date

ATTEST:

Robert L. Crowell, Mayor Date

ALAN GLOVER, Clerk-Recorder Date