

Appendix I

Water and/or Sewer Construction Agreement

CONTRACT NO. _____

JURUPA COMMUNITY SERVICES DISTRICT

**WATER AND/OR SEWER CONSTRUCTION AGREEMENT
(DEVELOPER INITIATED/CONTRACTOR INSTALLED)**

1. Parties & Date.

THIS AGREEMENT is made on this _____ day of _____, 20 ____, by and between the JURUPA COMMUNITY SERVICES DISTRICT OF RIVERSIDE COUNTY, a public agency of the State of California, with its principal place of business located at 11201 Harrel Street, Jurupa Valley, California 91752 (hereinafter referred to as the "District") and the following Corporation registered in _____ or Partnership Business Individual:

Name

Address

City State Zip Code

Telephone

(hereinafter referred to as the Developer"). Developer is represented by:

Name

Address

City State Zip Code

Telephone

2. Recitals.

WHEREAS, Developer is planning a development of _____ lot(s) located in a portion of Section _____, Township _____ South, Range _____ West, San Bernardino Base and Meridian, And such development is referenced within records of the County of Riverside, State of California as:

Lot(s) _____ of Tract _____

|Parcel(s) _____ of Parcel Map _____

Lot(s) _____ of _____

Assessor’s Parcel No. _____

and is further identified on the map attached hereto as Exhibit “A: and incorporated herein by reference (hereinafter sometimes referred to as the “Property”); and

WHEREAS, said Property will require a water and/or sewer system (hereinafter collectively Referred to as the “System”) to provide such service to the Property; and to the Property, and is willing to convey the System to the District after the construction thereof and

WHEREAS, Developer is desirous of having the District provide water and/or sewer service contingent upon the District’s acceptance of such conveyance and agreement to provide water and/or sewer service to the Property on the terms and conditions set forth herein.

3. Terms.

1. Compliance with Laws and Regulations: Developer will comply with all applicable State, federal and local laws and regulations, as well as all District rules, regulations and policies as they currently exist or as they may be amended from time to time. The District rules, regulations and policies are incorporated herein by reference.

2. Deposit to Cover Up-Front Costs: Developer shall deposit funds with the District sufficient to cover all necessary engineering, permit, inspection and system connection fees and costs. The amount of the deposit shall be determined by the District in its sole discretion.

3. Licensed Engineer: Developer shall contract for the design of the System by a licensed engineer in the State of California experienced in the design of similar systems.

4. System Specifications: The water and sewer System providing service to the Property shall comply with the District’s specifications. Construction plans shall be approved by the District prior to the presentation thereof to contractors for bidding purposes.

5. Licensed and Qualified Contractor: Developer shall contract for the services of a licensed and qualified Contractor to construct the System. The contract shall be in writing, signed by Developer and the licensed contractor, and reviewed and approved by the District. The Contractor shall have a valid, current license through the State of California with either of the following specifications: (1) a specialty contractor (“C-34”) pipeline license; or (2) a General Engineering Contractor (“A”) license. The contractor shall be experienced in the

construction of domestic water supply and sewer systems, and shall be reviewed and approved by the District as a qualified Contractor before a contract is signed and actual System construction begins.

6. Cost and Commencement of Construction: Developer shall be solely responsible for the entire cost of the construction of the System. Construction shall not begin until the District issues a "Notice to Proceed" and the Developer, or other authorized party, completes a "Certification of Streets to Final Grade" for the streets in which System is to be constructed. The System specifications, as well as District rules, regulations and policies. District inspection is solely for the purpose of maintaining conformance of construction with all District requirements, and is not for purposes of insuring compliance by the Contractor with safety requirements. Inspection or final acceptance shall not constitute a waiver by the District of any claims against Developer and/or Contractor for any defects in the work performed hereunder.

7. Indemnification: Developer shall indemnify and hold harmless the District, its directors, officers, employees, agents and volunteers from any and all claims, demands, loss, damages, costs or liability, including reasonable attorneys fees, expert fees, and any other fees and costs of suit, arising from or connected with this Agreement or the construction of the System.

8. Time for Completion: Developer shall guarantee the completion of System construction within _____ (_____) calendar days from the time material is delivered to the jobsite.

9. District Costs: Developer agrees to pay all costs incurred by the District as may be necessary to complete construction of the System, including administrative costs, or to secure compliance with the provisions of this Agreement.

10. Insurance Requirements: Developer shall require its contractor and subcontractors to procure and maintain, for the duration of System construction, insurance against claims for the injuries to persons or damages to property which may arise from or in connection with the performance of the Contractor, its officers, agents, representatives, employees, consultants or subcontractors. Such insurance shall be issued by an insurers having A.M. Best Company ratings of no less than A:VIII and licensed to do business in California, shall be satisfactory to the District, and shall meet the following requirements:

A. Coverage shall be at least as broad as the latest version of the following:

(i) *General Liability:* Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

(ii) *Automobile Liability:* Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto).

(iii) *Workers' Compensation and Employers Liability:* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(iv) *Course of Construction:* Course of Construction insurance covering for all risks of loss (including earthquakes if requested by the District).

B. Limits of Insurance shall be:

(i) *General Liability:* \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(ii) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage.

(iii) *Workers' Compensation and Employers Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease.

(iv) *Course of Construction*: Completed value of the project.

C. *Course of Construction Policy Requirements*: The course of construction insurance shall provide that the District be named as loss payee. In addition, the insurer shall waive all rights of subrogation against the District.

D. *Deductibles/Retentions*: Any deductibles or self-insured retentions must be declared to and approved by the District. Developer shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officers, employees, agents and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

E. *Separation of Insureds; No Special Limitations*: All insurance required by this Agreement shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officers, employees, agents and volunteers.

F. *Insurance Endorsements*: Contractor shall provide endorsements on forms supplied by the District to add the following provisions to the insurance policies:

(i) *General Liability*: (1) the District, its directors, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the work or operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the District, its directors, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officers, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it.

(ii) *Automobile Liability*: (1) the District, its directors, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the contractor or for which the contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the district, its directors, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officers, employees, agents and volunteers shall not be called upon to contribute with it.

(iii) *Workers' Compensation and Employers Liability Coverage*: the insurer shall agree to waive all rights of subrogation against the District, its directors, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the contractor.

(iv) *All Coverages*: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

G. *Verification of Coverage*: Contractor shall furnish district with original certificates of insurance and endorsements effecting coverage required by this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall

be on forms provided by the district. All certificated and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

H. Subcontractor Requirements: All subcontractors shall meet the requirements of this Section before commencing work. In addition, Contractor shall include all subcontractors as insureds under its policies, or shall finish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all requirements stated herein.

11. Professional Liability Insurance: Developer shall require its licensed engineer contracted to design the System, as well as any other architects, engineers, consultants or design professionals utilized by Developer pursuant to or in furtherance of this Agreement, to procure and maintain for a period of five (5) years following completion of the system, errors and omissions liability insurance with a limit of not less than \$1,000,000. This insurance shall name the District, its directors, officers, employees, agents and volunteers as additional and insureds with respect to work performed, and shall otherwise comply with all requirements of paragraph 10 including, but not limited to, subparagraphs 10(D), 10(E), 10(F)(iv), 10(G) and 10(H).

12. Bonding Requirements: Developer shall require its contractor to provide the District with the following types of bonds which shall name the District as the obligee therein:

A. Performance Bond: A performance bond from an admitted corporate surety satisfactory to the district. The performance bond shall be for not less than one hundred percent (100%) of the total contract price, as referenced in Paragraph 13(E).

B. Labor and Materials Payment Bond: A labor and materials payment bond from an admitted corporate surety satisfactory to the District. The payment bond shall be for not less than one hundred percent (100%) of the total contract price, as referenced in Paragraph 13(E).

C. Warranty Bond: A warranty bond from an admitted corporate surety satisfactory to the District. This bond shall guarantee the performance of the installed System against failures of any type for one (1) year from the date of filing of a Notice of completion. The warranty bond shall be in an amount equal to at least ten percent (10%) of the total contract price, as referenced in Paragraph 13(E), and shall provide for the payment of all costs incurred by the District for the repair of such failures within the one (1) year guarantee period.

D. Acceptability of Sureties: Bonds shall be obtained from sureties with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the District.

13. Final Inspection; Documents: The District's inspector shall complete a "Notice of Final Inspection" when all work has been completed in accordance with this Agreement and District requirements, and prior to the acceptance of the System by the District. In addition, before acceptance of the system by the district, Developer shall furnish to the District any and all requested documents, including but not limited to, the following:

A. Deeds: Easement Deeds or Grant Deeds to any rights-of-way or other real property interests necessary for roads, ingress and egress, and for System maintenance and operation.

B. Declaration of Full Payment: A Declaration by the Contractor that it has been paid in full, and that all persons employed by the Contractor or who have furnished material for the construction of the water system have been paid in full.

C. Notice of completion: The executed Notice of Completion to be filed by the District.

D. Title to System: A Grant Deed/Bill of Sale executed by the Developer vesting title of the System and appurtenances to the District.

E. Costs of Construction: A copy of the contract between Developer and its contractor, and any other documents requested by the District to verify the actual cost of the system.

14. Final Inspection; Service: District may, by written notice to Developer, terminate this agreement in whole or in part upon the breach of the terms of this Agreement by Developer, which terms shall include Developer's obligations with respect to its contractor. For example, Developer's failure to prosecute the construction of the System in a timely manner which will, according to the District, allow the System to be completed within the number of calendar days provided as the "Time for Completion" of the System, shall be grounds for termination.

15. Termination: District may, by written notice to Developer, terminate this Agreement in whole or in part upon the breach of the terms of this Agreement by Developer, which terms shall include Developer's obligations with respect to its contractor. For example, Developer's failure to prosecute the construction of the System in a timely manner which will, according to the District, allow the System to be completed within the number of calendar days provided as the "Time for Completion" of the System, shall be grounds for termination.

16. Successors and Assigns: This Agreement is binding on the assigns of the District, and on the assigns, successors and representatives of the Developer and the contractor. Developer shall not assign this Agreement without the prior written consent of the District.

17. Attorneys Fees: If either party commences an action, legal or otherwise, against the other party arising out of or in connection with this Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party reasonable attorneys fees and costs of suit.

18. Notices: All notices permitted or required under this Agreement shall be given to the respective parties at the addresses listed on Page 1 of this Agreement, or at such other address as the parties may provide in writing for this purpose. Such notice shall be deemed made when personally delivered or forty-eight (48) hours after deposit in the U.S. mail, first class postage prepaid.

19. Copies of Materials: District shall have the right to obtain for its records copies of all materials which may be prepared by or on behalf of the Developer and its contractor or subcontractors pursuant to or in furtherance of this Agreement. District shall not be limited in any way in its use of such materials at any time, provided that any such use not within the purposes intended by this Agreement shall be at the District's sole risk.

20. Entire Agreement: This agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

**JURUPA COMMUNITY SERVICES
DISTRICT OF RIVERSIDE COUNTY**

DEVELOPER

Name of Developer

By: _____
Signature

Name (Printed)

Title

Date

By: _____
Signature

Name (Printed)

Title

Date

EXHIBIT "A"
Map of Property