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§27388.1 (a)(2)(D) executed or recorded by  
the State or any county, municipality, or other  
political subdivision of the state

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

COACHELLA VALLEY WATER DISTRICT  
Post Office Box 1058  
Coachella, California 92236

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(Space above this line is for Recorder's Use)

APN: 757-062-002, 757-062-003  
TRA: 058-050

FILE: 0655.  
0421.2  
0001.3

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

THIS SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") by and between COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California ("CVWD") and DESERT RECREATION DISTRICT, a California recreation and park district ("Developer"). CVWD and Developer are collectively referred to herein as "Parties" and singularly as "Party."

RECITALS

A. Developer is the owner of certain real property located in the County of Riverside, California and legally described on Exhibit "A" and depicted on Exhibit "B" attached hereto and by this reference incorporated herein ("Developer Property").

B. Developer is developing a public park on the Developer Property ("Project"), with an estimated peak day demand of 50 gallons per minute (gpm). The Developer Property consists of approximately nine (9) acres.

C. The Project will require a domestic water distribution system and domestic water service will be provided to the Project. For purposes of this Agreement, the Domestic Water System may include, without limitation, pipelines and appurtenances thereto, including valves, service connections, and reservoir storage, as set forth in more detail in Exhibit "C" attached hereto and incorporated herein ("Domestic Water System"). The Domestic Water System is being improved and conveyed to CVWD for any use reasonably consistent with CVWD's responsibilities as a public utility.

D. The Project has a fire flow requirement of one thousand five hundred (1,500) gallons per minute for a two (2) hour duration.

E. Developer desires for CVWD to provide domestic water service to the Project and is willing to transfer to CVWD the domestic water distribution system after the construction thereof and CVWD is willing to accept such transfer and to provide domestic water service to the Project on the terms and conditions set forth herein.

F. The Parties desire by this Agreement to establish the terms and conditions under which Developer shall construct and transfer to CVWD the Domestic Water System required by CVWD for domestic water service.

NOW THEREFORE, THE RECITALS SET FORTH ABOVE ARE PART OF THIS AGREEMENT BELOW AND ARE INCORPORATED HEREIN, AND THE PARTIES AGREE AS FOLLOWS:

### AGREEMENT

1. Developer General Responsibilities. In accordance with the schedule and sequence requirements set forth herein, including, but not limited to, Appendix "A," attached hereto and incorporated herein ("Schedule"), Developer shall fulfill all of the following obligations, at its sole expense, to CVWD's sole satisfaction in order to obtain domestic water service from CVWD.

(a) Developer will comply with CVWD's rules, regulations, ordinances and procedures regarding the design, installation and construction of the facilities contemplated herein, including but not limited to, CVWD's Development Design Manual, "Standard Specifications for the Construction of Domestic Water Systems", Regulations Governing Domestic Water Service, and design standards, as may be amended by CVWD and the CVWD board of directors ("Board") from time to time (collectively, "Rules"). The Rules are incorporated herein by this reference.

(b) (i) Developer shall, at Developer's sole expense, be responsible for compliance with the laws of the State of California and the United States, including, but not limited to, applicable state and federal environmental laws, such as the California Environmental Quality Act ("CEQA"), the National Environmental Policy Act ("NEPA"), California Public Resources Code section 21000 et seq., and the Federal Endangered Species Act and the California Endangered Species Act, (collectively "Environmental Laws") applicable to the design and construction of the Domestic Water System. Developer shall be solely responsible for compliance with any conditions and mitigation measures required as a part of the compliance with the Environmental Laws. Developer shall ensure that a public agency of the State of California acceptable to CVWD acts as lead agency for the purposes of complying with CEQA, or CVWD may elect, but shall have no obligation, to act as lead agency for the purposes of this Agreement. As part of its obligation to comply with CEQA and applicable Environmental Laws, Developer shall prepare or cause to be prepared, at its sole cost, all instruments, documents, reports and other like or kind writings required to be prepared and/or filed by CEQA and applicable Environmental Laws.

- (ii) Developer shall, upon request by and at no cost to CVWD, provide CVWD with such information as Developer possesses or has available to it from any consultants, engineers, contractors or other persons engaged by or under the control of Developer relating to the environmental assessment for the Domestic Water System. Notwithstanding the preceding or anything to the contrary herein, nothing set forth herein shall be deemed to require CVWD to participate in any legal action related to the Domestic Water System.
- (c) (i) Storm, surface, ground, nuisance, or other waters may be encountered at various times during construction of the improvements. Developer hereby acknowledges that it has investigated the risk arising from such waters and assumes any and all risks and liabilities arising therefrom.
- (ii) Developer shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the construction of the improvements, including, without limitation, CVWD Ordinance No. 1234; Riverside County Ordinance 458; all applicable provisions of the local ordinances regulating discharges of stormwater; the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 et seq.); and any and all regulations, policies, or permits issued pursuant to any such authority. These include, but are not limited to California Regional Water Quality Control Board, Colorado Region, Order No. R7-2013-0011 (NPDES Permit No. CAS617002) and State Water Resources Control Board ("State Board") Order No. 2010-0014-DWQ, Order No. 2009-0009-DWQ, and Order No. 2012-0006-DWQ ("Construction General Permit"), and any amendment or renewal thereof.
- (iii) Developer shall comply with the lawful requirements of CVWD, and any municipality, drainage district, or other local agency with jurisdiction over the location where the improvements are to be conducted, regarding discharges of stormwater to separate storm drain systems or watercourses.
- (iv) Developer shall be required to comply with all aspects of the Construction General Permit, including any amendment or renewal thereof, for any project that involves construction on or disturbance of one acre or more of land or which are part of a larger common area of development or sale that disturbs one acre or more.
- (v) Failure to comply with laws, regulations, and ordinances listed in this Section is a violation of federal and state law. Notwithstanding any other indemnity contained in this Agreement, Developer agrees to indemnify and hold harmless CVWD, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which CVWD, its officials, officers, agents, employees and authorized volunteers may sustain or incur for

noncompliance with the laws, regulations, and ordinances listed above, arising out of or in connection with the improvements, except for liability resulting from the sole established negligence, willful misconduct or active negligence of CVWD, its officials, officers, agents, employees or authorized volunteers.

(vi) CVWD reserves the right to defend any enforcement action or civil action brought against CVWD for Developer's failure to comply with any applicable water quality law, regulation, or policy. Developer hereby agrees to be bound by, and to reimburse CVWD for the costs associated with, any settlement reached between CVWD and any relevant enforcement entity.

(d) Developer shall execute and deliver CVWD's Standard Domestic Water Installation Agreement ("Standard Installation Agreement") for each tract of land within the Project in such form and content as set forth in Exhibit "E" attached hereto and by this reference incorporated herein, as amended by CVWD from time to time. In the event of any inconsistency or ambiguity between the terms of the Standard Installation Agreement and this Agreement, the terms of this Agreement shall control.

(e) Developer shall employ, at its sole expense, a qualified professional engineering firm ("Developer's Engineer") to plan, design and prepare detailed construction plans and specifications ("Plans") for the Domestic Water System in full and complete accordance with CVWD's Rules, including but not limited to, the design criteria and standards, such as CVWD's "Development Design Manual." Developer's Engineer shall complete the design and Plans and the same shall be submitted to CVWD as set forth below. All such planning and design work and Plans performed and prepared by Developer's Engineer shall be designed to CVWD standards at the time of submittal and subject to review and written approval by CVWD prior to presentation thereof to contractors for bidding purposes. CVWD shall approve or disapprove the Plans within a reasonable amount of time after submittal to CVWD. In the event CVWD disapproves the Plans, Developer shall modify the Plans in accordance with the reasons given for disapproval and shall resubmit the revised Plans to CVWD for approval or disapproval. The foregoing procedure shall be continued until the Plans have been approved by CVWD. Developer hereby acknowledges and understands that CVWD may approve or disapprove Developer's planning and design work and Plans, in its sole and absolute discretion. Developer represents that the Plans will conform to all applicable federal, state and local governmental rules, ordinances and regulations and all applicable Environmental Laws. In submitting the Plans to CVWD for review, Developer represents that, to Developer's knowledge, after reasonable inquiry, that the Plans are complete, accurate, workable and are in compliance with all governmental requirements with respect thereto.

## **2. Developer's Responsibilities for Domestic Water Service**

Developer shall do the following for domestic water service at such time or times described herein or on Appendix "A" attached hereto and by this reference incorporated herein:

(a) Developer shall, prior to any design and construction, provide at Developer's sole expense, CVWD with a grant deed or map dedication for CVWD public services purposes conveying fee title to the following sites, at locations determined in the sole and absolute discretion of CVWD, free and clear of any liens and encumbrances, in compliance with the California Subdivision Map Act:

- (i) Not Used. (Well Site Provision)
- (ii) Not Used. (PRV provision)
- (iii) Not Used (Booster Pump Station provision)
- (iv) Not Used. (Reservoir Site provision)

(b) Not Used.

(c) Developer shall do the following for the design and construction of certain facilities:

- (i) Not Used.
- (ii) Not Used.
- (iii) Not Used.
- (iv) Based on the estimated peak day domestic water demands for the Project, the Developer is conditioned to provide seventy-two thousand (72,000) gallons of reservoir storage in the Middleton Pressure Zone. Prior to the provision of any water service to the Project (with the possible exception of construction water), Developer shall pay to CVWD the amount of \$60,156.00 (Reservoir Payment) for its portion of the estimated cost of the design and construction of a future reservoir in the Middleton Pressure Zone. The amount described in this subsection (iv) is based on CVWD's current Water System Backup Facilities Charge Study.

(v) Subject to Section 5(b), design and construct, at Developer's sole expense, to CVWD specifications, the pipelines or facilities shown on Exhibit "C" attached hereto and by this reference incorporated herein before water service is initiated by CVWD to the Units within the Project in accordance with the Schedule on Appendix A. The pipelines shall be of the type and material as shall be acceptable to CVWD in CVWD's sole and absolute discretion. The provisions herein relating to the design, construction and installation of the improvements shall apply to the design, construction and installation of the pipelines described herein.

(vi) Design and construct, at Developer's sole expense, to CVWD specifications, the internal domestic water pipelines to meet the Project's fire flow and domestic water requirements in accordance with a domestic water system model to be approved by CVWD, in CVWD's sole and absolute discretion. The internal domestic water pipelines shall be in service before domestic water is provided to the Project. The provisions herein relating to the design, construction and installation of the improvements shall apply to the design, construction and installation of the internal domestic water pipelines.

(vii) Section 2(c)(v) of this Agreement provides that Developer is required to install an eight-inch (8") pipeline ("Pipeline") as more particularly described therein. The minimum pipeline size required by Developer for that segment of the transmission pipeline system, is an eight- inch (8") pipeline ("Required Pipeline").

(viii) For purposes of this Agreement, the Required Pipeline shall be referred to herein as "the Required Facilities."

(d) Install, at Developer's sole expense, a pressure regulating valve in each Unit, if required by CVWD or in accordance with applicable codes.

(e) Complete in the required sequence, in accordance with the schedule in Appendix A, each Pipeline described herein before domestic water service is initiated by CVWD to the Units.

(f) Not Used.

(g) Prior to the first request for meter(s), Developer shall pay to CVWD all Water System Backup Facilities Charges ("WSBFC"), Water Demand Offset Fees and other charges related to the provision of domestic water service to the Developer Property.

### 3. Developer Pre-Plan Check Requirements

(a) Prior to submitting the Plans to CVWD for initial plan check, Developer shall do the following:

(i) Concurrently with the execution of this Agreement by Developer, Developer shall deliver to CVWD a current preliminary title report ("PTR") affecting the Developer Property dated within thirty (30) days of the delivery thereof to CVWD. CVWD shall notify Developer of any title exceptions within the PTR which must be subordinated to the lien of this Agreement. Notwithstanding the foregoing, any monetary liens or liens of any covenants, conditions and restrictions must be subordinated to the lien of this Agreement. Developer shall have a period of thirty (30) days after the receipt of written notice to cause the subordination of the items listed in

CVWD's notice, as well as any monetary liens or liens of any covenants, conditions and restrictions.

(ii) Pay CVWD's plan check deposit, and any other deposits required as part of the Standard Installation Agreement, and any amounts necessary to reimburse CVWD for costs incurred in connection with review of the Plans.

(iii) Furnish to CVWD the executed applicable CVWD standard agreements.

(iv) Complete and deliver to CVWD the original Bill of Sale on a form supplied by CVWD and any other forms as required by the Standard Installation Agreement.

(b) Prior to submitting Plans to CVWD for the second plan check, Developer shall do the following:

(i) Developer, at its sole expense, shall furnish to CVWD recorded grant deeds and/or recorded easement document(s) and/or easements proposed to be dedicated on tract maps and/or public rights-of-way, if applicable, satisfactory to CVWD (in its sole and absolute discretion) as to content, form, location, and width and which assure CVWD's unequivocal right to own, operate, maintain, replace, repair, enlarge, reconstruct, remove and improve the improvements. Developer shall ensure that all deeds of trust, mortgages and covenants, conditions and restrictions are re-conveyed as to fee ownership and subordinated to the easement(s) set forth herein. Developer shall also ensure that the grant deeds and easements comply with the requirements of CVWD's rules and regulations.

#### 4. Developer Plan Approval/Release Requirements

Prior to the approval/release of the Plans by CVWD for the improvements, Developer shall furnish to CVWD the following:

(a) The approved Plans in CVWD's approved electronic CAD standard and format. Digital submittal standard and format shall be at the sole discretion of CVWD.

(b) This signed, notarized Agreement.

#### 5. Developer Pre-Construction Requirements

Following receipt of CVWD's approval of the design and Plans for the improvements and prior to the construction thereof, Developer shall do the following:

(a) Furnish to CVWD, prior to the pre-construction meeting set forth in subsection (c) below, a Performance Guarantee Cash Deposit in the amount of Five Thousand Dollars (\$5,000.00) or five percent (5%) of the amount of the construction costs of the domestic water facilities, whichever is greater, of immediately available funds as security for the purpose of guaranteeing the

completion of construction of the domestic water facilities. The term "immediately available funds" shall mean cash, wire transfer or a cashier's check drawn on good and sufficient funds on a federally insured bank and made payable to the order of CVWD. CVWD shall not be required to keep the funds separate from its general funds. In the event CVWD invests the deposit, CVWD shall pay the minimum interest rate set forth in California Government Code Section 53079(b), less one (1) full percentage point. CVWD shall have the absolute right five (5) days after the mailing of a written notification to Developer, by certified mail at Developer's address herein to draw all or a portion of the funds represented by the security as may be necessary to complete construction, including administrative and all other project costs or to secure compliance with this Agreement, including the construction of the domestic water facilities; each Performance Guarantee Cash Deposit shall be issued or delivered on a case-by-case basis, for each contract based on the construction required as outlined herein.

The deposit, less draws, if any, will be returned to Developer, on a case-by-case basis, upon CVWD declaring that the domestic water facilities are final and complete (including, but not limited to, the paving of the road/street/right-of-way above such facilities) in CVWD's sole and absolute discretion. Developer hereby understands, acknowledges and agrees that the determination that the domestic water facilities are complete and final may come after CVWD has accepted such facilities.

(b) (i) Employ, with written concurrence of CVWD, a qualified contractor or contractors (collectively, "Developer's Contractor") properly licensed by the State of California to construct and complete the improvements.

(ii) Not Used.

(iii) Not Used.

(iv) Not Used.

(v) Not Used.

(vi) Not Used.

(vii) Not Used.

(c) Arrange or cause the Developer's Contractor to arrange a pre-construction meeting with CVWD. At such meeting there shall be at least one (1) representative of Developer, Developer's Contractor and CVWD. At such meeting, Developer shall be required to pay to CVWD an Inspection Services Deposit for inspection as shall be required by CVWD. CVWD shall deduct from said Inspection Services Deposit all reasonable cost and expense of CVWD, including, but not limited to, CVWD's agents, employees, consultants or independent contractors. CVWD shall handle such deposit consistent with CVWD's rules, regulations and procedures with respect to such deposits. The Inspection Services Deposit is the minimum



required amount and may be modified, in CVWD's sole discretion, based on the project size, complexity, or impacts to CVWD. CVWD may elect to use consultants to perform the inspection services for specific projects based on either technical needs and/or staff availability. The Inspection Services Deposit is refundable only to the extent the deposit exceeds expenses incurred by CVWD.

(d) Obtain and maintain in full force and effect during the term of this Agreement, the insurance coverages listed on Exhibit "F" attached hereto and by this reference incorporated herein.

## 6. Developer Construction Requirements

Following satisfaction of the requirements set forth in Section 5, Developer shall construct the improvements in accordance with the following requirements:

(a) Developer shall, at its sole expense, apply for and obtain all necessary consents, approvals, permits, authority, licenses or entitlements as shall be required for the construction and installation of each facility or improvement from all appropriate governmental authorities.

(b) Once construction and/or installation of an improvement has commenced, Developer shall diligently prosecute the same to completion at no cost or expense to CVWD in conformance with the laws, rules and regulations of all governmental bodies and agencies, including those of CVWD.

(c) Developer shall perform, or cause to be performed, all construction and installation of the improvements in good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken and in compliance with the construction standards set forth herein. Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, construction and installation of the improvements.

(d) Developer shall name CVWD as an express third party beneficiary in its construction contract with Developer's Contractor.

(e) Developer shall ensure that CVWD is a named additional insured in the insurance policies provided by Developer's Contractor pursuant to the Developer's construction contract.

(f) Developer shall include CVWD and the CVWD Indemnitees as defined herein, as indemnitees in the indemnification clause in the construction contract between Developer and Developer's Contractor.

(g) Developer shall cause the Developer's Contractor to comply with the applicable Occupational Safety and Health Administration ("OSHA") standards and requirements, including, but not limited to, submitting construction and shoring plans.

(h) CVWD shall be under no obligation to protect any improvement to be constructed by or on behalf of Developer, or any material, tool, equipment and facilities until written acceptance thereof by CVWD. Prior to the acceptance, Developer shall bear all risk of loss or damage thereto by whatever cause inflicted. Developer shall bear the sole cost and responsibility to rebuild, repair, restore and replace or cause to be rebuilt, repaired, restored or replaced, and make good all injuries or damages to any portion of the improvements before completion and acceptance by CVWD and Developer shall bear the expense thereof.

(i) Developer shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Developer for the Domestic Water System and shall keep the Domestic Water System free and clear of any liens related to such charges. Developer shall indemnify CVWD for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Domestic Water System in connection with such charges; provided, however, that Developer shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Domestic Water System or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Domestic Water System.

(j) Each improvement shall be installed in strict compliance with the Plans. Any deviations from the approved Plans have CVWD's written approval.

(k) Developer is required by this Agreement to install and construct certain improvements which will be dedicated to CVWD upon completion thereof in accordance with the terms of this Agreement. Notwithstanding the foregoing, if Developer does not believe that it is required to perform such work in the same manner and subject to the same requirements as would be applicable to CVWD had it undertaken construction, including, without limitation, the payment of prevailing wages, and other public works requirements pursuant to the California Labor Code, the California Government Code and the California Public Contract Code, then Developer undertakes such construction at Developer's risk. Should it be determined in the future by either the legislature or court of competent jurisdiction that Developer was required to comply with some or all of the requirements as would be applicable to CVWD had it undertaken such construction, Developer shall indemnify, defend and hold harmless CVWD Indemnitees (as defined in Exhibit "G") from all Costs (as defined in Exhibit "G") to which they may be subjected or put, by reason of or resulting from failure to comply with public works requirements, including, but not limited to, the failure to pay prevailing wages or such other requirements as would be applicable to CVWD had it undertaken such construction.

(l) Developer hereby irrevocably appoints CVWD to inspect the furnishing and installation of the improvements. Developer shall provide CVWD representatives with reasonable access for inspection purposes. It is understood and agreed that CVWD's inspection personnel shall have the authority to enforce the Plans, which authority shall include requiring that all unacceptable materials, workmanship and/or installation be replaced, repaired or corrected by Developer's Contractor.

Nothing herein shall be construed to grant CVWD direct control over Developer's Contractor or anyone but Developer or its designee. CVWD's inspection does not include inspection for compliance with safety requirements by Developer's Contractor. Any inspection completed by CVWD shall be for the sole use and benefit of CVWD, and neither Developer nor any third party shall be entitled to rely thereon for any purpose. CVWD does not undertake or assume any responsibility for or owe a duty to select, review or supervise the creation of the improvements.

(m) If the Inspection Services Deposit is insufficient or is expended during the course of construction, Developer shall pay CVWD an additional Inspection Services Deposit based on the Developer's schedule to complete the work.

7. Developer Requirements for Domestic Water Service and Project Completion and Acceptance

(a) Prior to the first request for meter(s), Developer shall pay to CVWD all Water System Backup Facilities Charges ("WSBFC"), Water Demand Offset Fees and other charges related to the provision of domestic water service to the Developer Property.

(b) (i) Upon completion and testing of the Domestic Water System, and at the time of the Progress for Service request for domestic water service (issuance of meters), Developer's Engineer of Record shall provide signed and approved As-Built Drawings (electronic or hard copy) and a complete CVWD Asset Register form to CVWD. In addition, Developer shall provide the actual construction cost of the improvements to CVWD. Upon completion and testing of an improvement, and after final paving, Developer shall give CVWD notice of the same. CVWD shall make a final inspection and provide written notice to Developer either (A) confirming that such improvement has been completed in accordance with the requirements of this Agreement or (B) setting forth a punchlist of items that need to be completed or corrected. If CVWD provides such a punchlist, the above-referenced notice and inspection procedure shall be repeated upon completion of the punchlist items. Nothing herein shall be considered a waiver of any warranty, guarantee or other right in favor of CVWD.

(ii) Upon completion and acceptance of each applicable improvement, Developer shall prepare and execute a Certificate of Completion and Final Acceptance as to each applicable improvement and record said notice with the Office of Recorder of the County of Riverside, State of California.

(iii) Upon receipt of the Certificate of Completion and final acceptance, the Bill of Sale provided herein shall convey title to the improvements at no cost and expense to CVWD. The improvements shall be transferred to CVWD free of all liens and encumbrances.

(iv) Developer warrants and represents to CVWD that the improvements covered hereby shall be free from construction defects for twelve (12) months from the date of CVWD final acceptance. The Developer shall

maintain in force the Performance Guarantee Cash Deposit for the duration of the twelve (12) month guarantee.

(v) CVWD shall repair, at Developer's cost and expense, all failures of any improvement which was furnished, installed and/or constructed due to faulty materials or installation during the twelve (12) month warranty period referred to in subsection (iv) above. Developer shall, within thirty (30) days after written demand therefor, pay or cause Developer's Contractor or surety to pay such cost shown on the invoice. Nothing in this subsection or subsection (iv) above shall limit or abrogate any other claims, demands or actions CVWD may have against Developer or Developer's Contractor on account of damages sustained by reason of such defects, nor shall the provisions of this Section limit, abrogate or affect any warranties in favor of CVWD which are expressed or implied by law or set forth in any construction agreement.

(c) Developer's Engineer shall provide to CVWD all field engineering surveys associated with the construction of the improvements at Developer's sole expense. Developer shall promptly furnish to CVWD all field notes and grade sheets, together with all location, offset, and attendant data and reports, resulting from Developer's field engineering survey and/or proposed facility design changes, all of which have been prepared in accordance with generally accepted engineering practices, and allow CVWD sufficient time to approve or make any required design changes resulting therefrom prior to construction. Any inspection or review pursuant to this subsection shall be for the sole use and benefit of CVWD, and neither Developer nor any third party shall be entitled to rely thereon for any purpose.

#### 8. Project Close Out Requirements

After receipt of the Certificate of Completion and final acceptance the following requirements shall apply:

(a) Upon completion of an improvement, Developer shall notify CVWD in writing, and cause contractors and all subcontractors and materialmen to provide unconditional lien and material releases.

(b) Developer shall provide CVWD with a declaration by Developer's Contractor that the Developer's Contractor and all persons and entities who furnished material in the construction of the improvements have been paid in full.

(c) All permits, plans and operating manuals related thereto, shall be delivered to and become the sole property of CVWD, subject to Developer's warranty work and other obligations required hereunder. On the acceptance of an improvement, Developer shall deliver to CVWD, at no cost to CVWD, all surveys and as-built drawings associated with the construction of the improvement.

#### 9. CVWD Requirements for Domestic Water Service

CVWD shall do the following for domestic water service to the Developer Property:

(a) Not Used.

(b) Subject to federal, state and local laws, rules, regulations, ordinances and rulings with respect to the provisions of fire flow, including those of CVWD, provide a fire flow of one thousand five hundred (1,500 ) gallons per minute, respectively, to said Project subject to completion of all CVWD's requirements in connection with the same, including, without limitation, Developer constructing all pipelines and Developer providing payment for the Reservoir Payment subject to circumstances within the control of CVWD.

(c) Subject to Developer constructing the domestic water service system and complying with the terms of this Agreement, including, but not limited to the payment of fees, CVWD shall provide domestic water service to the Project subject to circumstances within the control of CVWD or as otherwise provided by CVWD's rules, regulations and indices, policies and procedures, as may be amended from time to time. Further, Developer acknowledges that domestic water service shall be provided from such services and facilities as shall be available to CVWD. In the event water is unavailable to service all of CVWD's customers, service to the Developer Property may be discontinued or subject to reduction in service, as determined by CVWD.

(d) Consider one hundred percent (100%) of the actual cost, exclusive of engineering, inspection and surveying of the the pipelines described in subsection 2(c)(vii) as credit for the specific Dwelling Unit Charge sub-component of the WSBFC at the charge in effect on the day each facility is placed into service in CVWD's system for the Project. The credit shall not exceed the total specific sub-component of the DUC. The Water Demand Offset Fee is not creditable and shall be paid at the current rate in effect at the time payment is made. The Water Demand Offset Fee may be reduced up to 60 percent if non-potable water is utilized within the Development.

(e) In the event the construction costs determined above for the Pipelines, respectively, exceed the sub-component Dwelling Unit Charge of the WSBFC, CVWD will not pay the additional construction costs for the Pipelines, respectively.

#### 10. General Provisions

(a) Developer shall defend, indemnify, and hold harmless CVWD and its officers, directors, administrators, representatives, consultants, engineers, employees and agents and their respective successors and assigns (collectively, "CVWD Indemnitees"), in accordance with the provisions of Exhibit "G" attached hereto and by this reference incorporated herein.

(b) Prior to the acceptance of the improvements by CVWD, Developer shall furnish to CVWD any and all documents reasonably requested by CVWD.

(c) In the event that construction of the improvements to be constructed hereunder has not begun within twelve (12) months of the date of approval of the Plans, CVWD shall have the right to terminate this Agreement effective upon written notice to Developer. Following such termination, the Parties may enter into

a new agreement which shall be subject to the fees, charges and Rules applicable at the time of the making of the new agreement.

(d) All notices under this Agreement shall be in writing and mailed (registered or certified, postage prepaid, return receipt requested), or by express carrier (return receipt requested) or hand delivered to Parties the addresses set forth below. All such notices shall, if hand delivered, or delivered by express carrier, be deemed received upon delivery and, if mailed, be deemed received three (3) business days after such mailing.

CVWD:

Coachella Valley Water District  
Attention: J.M. Barrett, General Manager  
Post Office Box 1058  
Coachella, CA 92236

DEVELOPER:

Desert Recreation District  
Attention: Kevin Kalman, General Manager  
45-305 Oasis Street  
Indio, CA 92201

(e) Time is of the essence of this Agreement and each and every term and provision thereof.

(f) This Agreement shall be construed as if prepared by all of the Parties hereto. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived.

(g) No delay on the part of any Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any Party hereto of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise of any other right, power or privilege hereunder.

(h) If any of the provisions of this Agreement are held to be contrary to law by a court or governmental administrative agency of competent jurisdiction, such provisions will not be deemed valid and subsisting, except to the extent permitted by law, and the parties shall, if possible, enter into negotiations for the sole purpose of arriving at a mutually satisfactory replacement for such provisions. The remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.

(i) This Agreement may only be modified in a writing signed by both Parties.

(j) In the event of any litigation or other action between the Parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be

entitled, in addition to such other relief as may be granted, to its reasonable costs and attorneys' fees.

(k) The invalidity or illegality of any provision of this Agreement shall not affect the remainder of this Agreement.

(l) Each Party hereto agrees to execute and deliver such documents and perform such other acts as may be necessary to effectuate the purposes of this Agreement.

(m) Each individual executing this Agreement hereby represents and warrants that he or she has the full power and authority to execute this Agreement on behalf of the named Parties.

(n) Developer shall maintain and make available for inspection by CVWD during regular office hours, accurate records pertaining to the design, construction and installation of the improvements to be constructed by Developer.

(o) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

(p) If any payment due CVWD hereunder is not paid when due, Developer shall pay to CVWD an additional ten percent (10%) for each payment due as an administrative processing charge. The Parties agree that this late charge represents a fair and reasonable estimate of the costs that CVWD will incur by reason of late payment by Developer. Acceptance of any late charge shall not constitute a waiver of Developer's default with respect to the overdue amount or prevent CVWD from exercising any of the other rights and remedies available to CVWD. Any payment not paid when due shall bear simple interest at the rate of ten percent (10%) per annum (provided such amount shall not exceed the maximum rate allowed under California law) from the date due until paid in full.

(q) The Parties agree that any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the Federal or State courts located in Riverside County, California, and the Parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.

(r) This Agreement is entered into within the State of California, and all questions concerning the validity, interpretation and performance of any of its terms or provisions or any of the rights or obligations of the Parties hereto shall be governed by and resolved in accordance with the laws of the State of California.

(s) The terms and provisions set forth in this Agreement shall be deemed provisions, terms and/or covenants running with the Developer Property in accordance with applicable law, including, without limitation, Section 1468 of the California Civil Code and shall pass to and be binding upon the successor owners of the Developer Property. This Agreement shall burden the Developer Property and is binding on the successors, assigns and all persons acquiring ownership of any interest in, or any portion of the Developer Property. This Agreement shall

benefit the Developer Property and inure to the benefit of the owners of the Developer Property. As such, all successor owners of the Developer Property will have any of the rights, responsibilities and liabilities of Developer, as if such person or entity originally executed this Agreement in place and stead of Developer. Each and every contract, deed or other instrument hereafter executed covering or conveying the Developer Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to such terms and conditions regardless of whether such terms and conditions are set forth in such contract, deed or other instrument. No transfer of the Developer Property shall relieve Developer of any responsibility or liability under this Agreement.

(t) Following fulfillment of the terms and conditions herein and acceptance by CVWD of the improvements to be constructed hereunder, CVWD will provide domestic water service to the Developer Property in accordance with the Rules.

(u) This Agreement, together with the exhibits attached hereto and other writings referenced herein, such as, but not limited to the Rules, contains the entire agreement between the Parties relating to the subject matter hereof and supersedes any and all prior agreements between the Parties, oral or written, and any and all amendments thereto. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

[REMAINDER OF PAGE LEFT BLANK – SIGNATURES ON NEXT PAGE]



**IN WITNESS WHEREOF**, the Parties have caused this Special Domestic Water System Installation Agreement to be executed as of the day and year first set forth above.

Dated: 11/9/25

**DEVELOPER:**

**DESERT RECREATION DISTRICT, A  
CALIFORNIA RECREATION AND PARK  
DISTRICT**

By:   
Name Kevin Kalman  
Title General Manager

Dated: \_\_\_\_\_

**CVWD:**

**COACHELLA VALLEY WATER DISTRICT,  
a public agency of the State of California**

By: \_\_\_\_\_  
J. M. Barrett  
General Manager

**ATTEST:**

\_\_\_\_\_  
Sylvia Bermudez  
Clerk of the Board

**CALIFORNIA ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

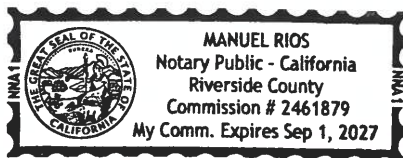
State of California

County of Riverside }

On January 9, 2025 before me, Manuel Rios, Notary  
Date Here Insert Name and Title of the Officer

personally appeared Kevin Kalman  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]  
Signature of Notary Public

*Place Notary Seal and/or Stamp Above*

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: Special Domestic Water System Installation Agreement

Document Date: January 9, 2025 Number of Pages: 3.3

Signer(s) Other Than Named Above: No other signees

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Kevin Kalman

☐ Corporate Officer – Title(s): \_\_\_\_\_

☐ Partner – ☐ Limited ☐ General

☒ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer – Title(s): \_\_\_\_\_

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

## EXHIBIT LIST

EXHIBIT "A"	LEGAL DESCRIPTION DEVELOPER PROPERTY
EXHIBIT "B"	DEPICTION DEVELOPER PROPERTY
EXHIBIT "C"	DESCRIPTION/DEPICTION OF FACILITIES
EXHIBIT "D"	RESERVOIR SITE
EXHIBIT "E"	STANDARD AGREEMENT
EXHIBIT "F"	INSURANCE
EXHIBIT "G"	INDEMNITY
APPENDIX A	SCHEDULE

EXHIBIT "A"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

LEGAL DESCRIPTION DEVELOPER PROPERTY

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF**  
**DEVELOPER PROPERTY**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 6 SOUTH, RANGE 8 EAST, SAN BERNARDINO BASE AND MERIDIAN, ALSO BEING "PARCEL A" OF LOT LINE ADJUSTMENT NO. 220043 RECORDED APRIL 4, 2023 AS INSTRUMENT NO. 2023-95377, OFFICIAL RECORDS OF RIVERSIDE COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22;

THENCE NORTH 89°32'28" EAST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22 A DISTANCE OF 466.71 FEET TO A LINE BEING PARALLEL WITH AND DISTANT 466.69 FEET EASTERLY OF AS MEASURED AT RIGHT ANGLES TO THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22;

THENCE SOUTH 00°01'46" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 965.44 FEET TO A LINE PARALLEL WITH AND DISTANT 965.27 FEET SOUTHERLY OF AS MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22;

THENCE SOUTH 89°32'28" WEST ALONG LAST SAID PARALLEL LINE A DISTANCE OF 466.71 FEET TO THE WESTERLY LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22;

THENCE NORTH 00°01'46" EAST ALONG SAID WESTERLY LINE A DISTANCE OF 965.44 FEET TO THE **POINT OF BEGINNING**.

CONTAINS 10.3 ACRES, MORE OR LESS.

SEE EXHIBIT "B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION IN COMPLIANCE WITH THE CALIFORNIA LAND SURVEYORS ACT.



TUNG JU HSIEH - PLS 8722      DATE: 11/27/2023  
THE ALTUM GROUP  
44-600 Village Court, Suite 100  
Palm Desert, CA 92260  
Tel: 760 346-4750



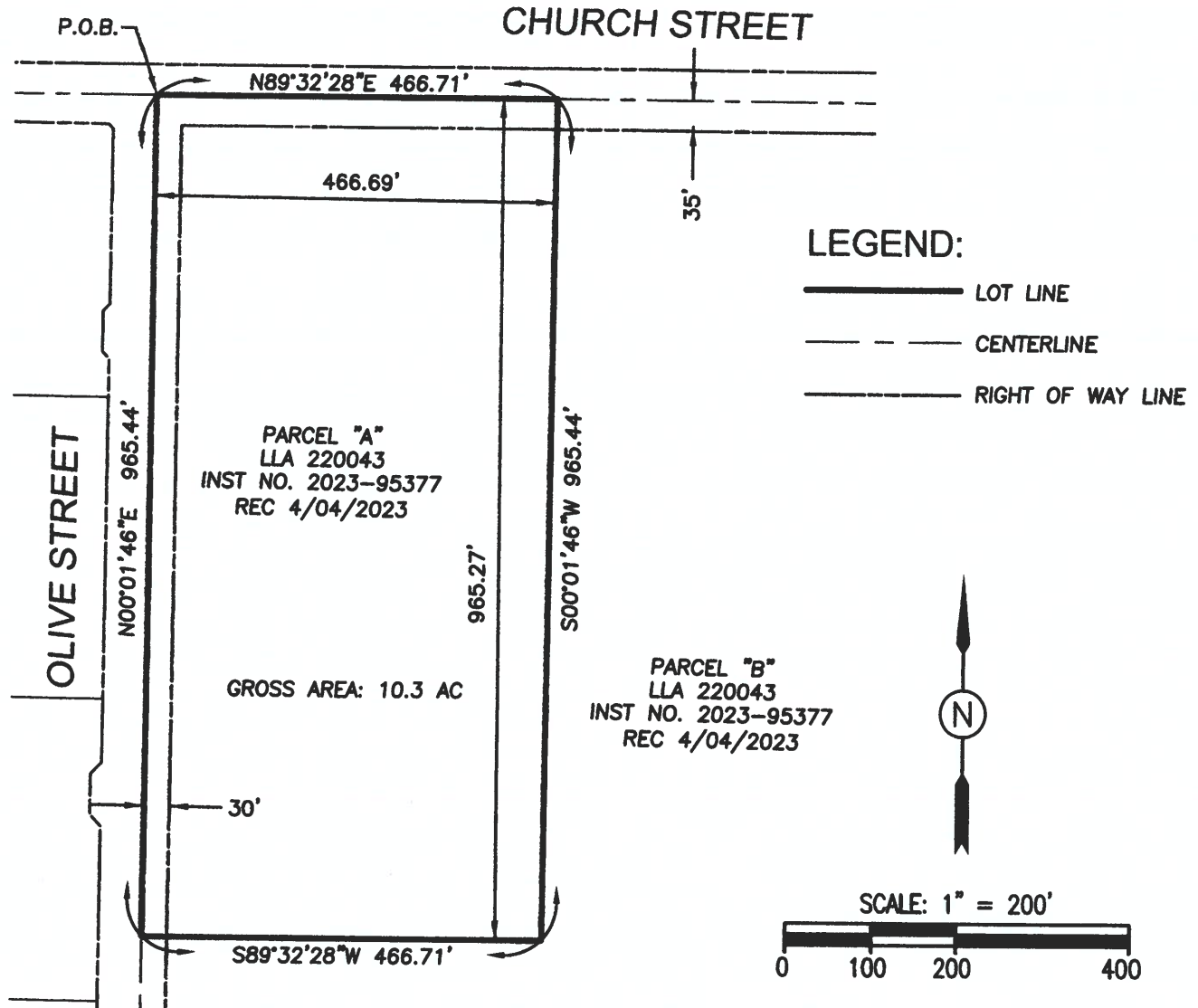
EXHIBIT "B"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

DEPICTION DEVELOPER PROPERTY

SE 1/4, NW 1/4, SEC 22, T6S, R8E, SBM  
DEVELOPER PROPERTY



PREPARED UNDER THE SUPERVISION OF:



TUNG JU HSIEH, P.L.S. 8722 DATE: 11/27/23



The Altum Group

44-600 Village Court, Suite 100 | Palm Desert CA, 92260  
t. 760.346.4750 TheAltumGroup.com f. 760.340.0089

- Engineering
- Planning
- Survey
- Environmental

EXHIBIT "B"  
DEVELOPER PROPERTY

PROJECT NO.: C1876

SCALE: 1" = 200'

DATE: 11/27/23

SHEET: 1 OF 1

DRAWN BY: TJH

CHECKED BY: RGL

EXHIBIT "C"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

DESCRIPTION/DEPICTION OF FACILITIES

- Approximately 940 linear feet of an 8-inch diameter ductile iron pipeline on Olive Street



EXHIBIT "D"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

RESERVOIR SITE

- Not Used

EXHIBIT "E"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

STANDARD AGREEMENT

Exemption from recording fee per Govt.  
Code §27383 and SB(2) fee per Govt. Code  
§27388.1 (a)(2)(D) executed or recorded by  
the State or any county, municipality, or other  
political subdivision of the state

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

COACHELLA VALLEY WATER DISTRICT  
Post Office Box 1058  
Coachella, California 92236

---

(Space above this line is for Recorder's Use)

APN:  
TRA:

FILE: 0655.

### STANDARD DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

THIS STANDARD DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") by and between COACHELLA VALLEY WATER DISTRICT, a public agency of the State of California ("CVWD") and \_\_\_\_\_ ("Developer"). CVWD and Developer are collectively referred to herein as "Parties" and singularly as "Party."

### RECITALS

A. Developer is the owner of certain real property located in the County of Riverside, California legally described on Exhibit "A" and depicted on Exhibit "B" attached hereto and by this reference incorporated herein ("Developer Property").

B. Developer is developing a \_\_\_\_\_ on the Developer Property ("Project") of approximately ( ) units ("Units").

C. The Developer Property will require a Domestic Water System and domestic water service to each of the Units. For purposes of this Agreement, the term "Domestic Water System" shall include, without limitation, pipelines and appurtenances thereto, including valves, service connections and fire hydrants, but excepting a water meter to the Unit.

D. Developer desires for CVWD to provide domestic water service to the Developer Property and is willing to transfer to CVWD the domestic water system necessary therefor after the construction thereof and CVWD is willing to accept such transfer and to provide domestic water service to the Developer Property on the terms and conditions set forth herein.

E. The Parties desire by this Agreement to establish the terms and conditions under which Developer shall construct and transfer to CVWD the Domestic Water System required by CVWD for domestic water service.

NOW, THEREFORE, THE RECITALS SET FORTH ABOVE ARE PART OF THIS AGREEMENT BELOW AND ARE INCORPORATED HEREIN, AND THE PARTIES AGREE AS FOLLOWS:

## AGREEMENT

### 1. Developer General Responsibilities

(a) Developer will comply with CVWD's rules, regulations, ordinances and procedures regarding the design, installation and construction of the facilities contemplated herein, including but not limited to, CVWD's Development Design Manual, "Standard Specifications for the Construction of domestic water systems", Regulations Governing Domestic Water Service, and design standards, as may be amended by CVWD and the CVWD board of directors ("Board") from time to time (collectively, "Rules"). The Rules are incorporated herein by this reference.

(b) (i) Developer shall, at Developer's sole expense, be responsible for compliance with the laws of the State of California and the United States, including, but not limited to, applicable state and federal environmental laws, such as the California Environmental Quality Act ("CEQA"), the National Environmental Policy Act ("NEPA"), California Public Resources Code section 21000 et seq., and the Federal Endangered Species Act and the California Endangered Species Act, (collectively "Environmental Laws") applicable to the design and construction of the Domestic Water System. Developer shall be solely responsible for compliance with any conditions and mitigation measures required as a part of the compliance with the Environmental Laws. Developer shall ensure that a public agency of the State of California acceptable to CVWD acts as lead agency for the purposes of complying with CEQA, or CVWD may elect, but shall have no obligation, to act as lead agency for the purposes of this Agreement. As part of its obligation to comply with CEQA and applicable Environmental Laws, Developer shall prepare or cause to be prepared, at its sole cost, all instruments, documents, reports and other like or kind writings required to be prepared and/or filed by CEQA and applicable Environmental Laws.

(ii) Developer shall, upon request by and at no cost to CVWD, provide CVWD with such information as Developer possesses or has available to it from any consultants, engineers, contractors or other persons engaged by or under the control of Developer relating to the environmental assessment for the Domestic Water System. Notwithstanding the preceding or anything to the contrary herein, nothing set forth herein shall be deemed to require CVWD to participate in any legal action related to the Domestic Water System.

(c) (i) Storm, surface, ground, nuisance, or other waters may be encountered at various times during construction of the improvements. Developer hereby acknowledges that it has investigated the risk arising from such waters and assumes any and all risks and liabilities arising therefrom.

(ii) Developer shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the construction of the improvements, including, without limitation, CVWD Ordinance No. 1234; Riverside County Ordinance 458; all applicable provisions of the local ordinances regulating discharges of stormwater; the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 et seq.); and any and all regulations, policies, or permits issued pursuant to any such authority. These include, but are not limited to California Regional Water Quality Control Board, Colorado Region, Order No. R7-2013-0011 (NPDES Permit No. CAS617002) and State Water Resources Control Board ("State Board") Order No. 2010-0014-DWQ, Order No. 2009-0009-DWQ, and Order No. 2012-0006-DWQ ("Construction General Permit"), and any amendment or renewal thereof.

(iii) Developer shall comply with the lawful requirements of CVWD, and any municipality, drainage district, or other local agency with jurisdiction over the location where the improvements are to be conducted, regarding discharges of stormwater to separate storm drain systems or watercourses.

(iv) Developer shall be required to comply with all aspects of the Construction General Permit, including any amendment or renewal thereof, for any project that involves construction on or disturbance of one acre or more of land or which are part of a larger common area of development or sale that disturbs one acre or more.

(v) Failure to comply with laws, regulations, and ordinances listed in this Section is a violation of federal and state law. Notwithstanding any other indemnity contained in this Agreement, Developer agrees to indemnify and hold harmless CVWD, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which CVWD, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the laws, regulations, and ordinances listed above, arising out of or in connection with the improvements, except for liability resulting from the sole established negligence, willful misconduct or active negligence of CVWD, its officials, officers, agents, employees or authorized volunteers.

(vi) CVWD reserves the right to defend any enforcement action or civil action brought against CVWD for Developer's failure to comply with any applicable water quality law, regulation, or policy. Developer hereby agrees to be bound by, and to reimburse CVWD for the costs associated with, any settlement reached between CVWD and any relevant enforcement entity.

(d) Developer shall employ, at its sole expense, a qualified professional engineering firm ("Developer's Engineer") to plan, design and prepare detailed construction plans and specifications ("Plans") for the Domestic Water System in

full and complete accordance with CVWD's Rules, including but not limited to, the design criteria and standards, such as CVWD's "Development Design Manual." Developer's Engineer shall complete the design and Plans and the same shall be submitted to CVWD as set forth below. All such planning and design work and Plans performed and prepared by Developer's Engineer shall be designed to CVWD standards at the time of the submittal and be subject to review and written approval by CVWD prior to presentation thereof to contractors for bidding purposes. CVWD shall approve or disapprove the Plans within a reasonable amount of time after submittal to CVWD. In the event CVWD disapproves the Plans, Developer shall modify the Plans in accordance with the reasons given for disapproval and shall resubmit the revised Plans to CVWD for approval or disapproval. The foregoing procedure shall be continued until the Plans have been approved by CVWD. Developer hereby acknowledges and understands that CVWD may approve or disapprove Developer's planning and design work and Plans, in its sole and absolute discretion. Developer represents that the Plans will conform to all applicable federal, state and local governmental rules, ordinances and regulations and all applicable Environmental Laws. In submitting the Plans to CVWD for review, Developer represents that, to Developer's knowledge, after reasonable inquiry, that the Plans are complete, accurate, workable and are in compliance with all governmental requirements with respect thereto.

(i) Developer and Developer's successors, assigns and successors-in-interest to the Developer Property shall be liable at its sole expense, for any surface improvements, including, but not limited to, entry gate(s), pilasters, call boxes, island medians/planters, landscape and associated irrigation systems, decorative concrete, alternative paving methods, seal coating, overlaying or other surface improvements ("Surface Improvements") both within and outside the immediate area of construction and/or easement for the Domestic Water System which CVWD may be required to remove in the future to gain access to the Domestic Water System. All Surface Improvements must adhere to CVWD's Development Design Manual and Landscape Ordinance, as amended from time to time. CVWD shall not be responsible for any Surface Improvements either within or outside the immediate area of construction and/or easement for the Domestic Water System. If the Surface Improvements or the installation or use thereof cause damage to the Domestic Water System, Developer and Developer's successors, assigns and successors-in-interest to the Developer Property shall reimburse any cost incurred by CVWD in repairing such damage. Such costs shall be paid by Developer and Developer's successors, assigns and successors-in-interest within ten (10) calendar days following receipt of an invoice from CVWD. Developer shall include the terms of this subsection, in substantially the same form, in the Covenants, Conditions, and Restrictions ("CCRs") for the Developer Property.

(ii) Prior to any service hereunder, Developer hereby consents and agrees to execute CVWD's standard form Water Production Metering Agreement (or such successor agreement) ("Metering Agreement") for any and all producing wells on the Developer Property. The Metering Agreement

shall provide, in part, that (i) such wells must be equipped with a water measuring device ("Measuring Device") more particularly described therein; (ii) on a monthly basis the Developer shall grant CVWD employees, agents and representatives an irrevocable right to come onto the Developer Property to read and maintain the Measuring Device, and (iii) Developer shall be required to pay a monthly replenishment assessment charge. Developer's that do not produce more than 25 acre-feet in any year from within areas benefiting from CVWD's groundwater replenishment programs shall be exempt from paying replenishment assessment charges during that year.

(iii) Prior to any service hereunder, the Developer shall provide CVWD gate codes for access to the Developer Property through any electrically or electronically operated security gate system installed by Developer. If the Developer cannot provide CVWD with gate codes then CVWD shall have the right to install radio controls to operate said gate(s) at Developer's expense. Developer hereby grants to CVWD an irrevocable easement for CVWD in and over the Developer Property for the purpose of installation, reinstallation, repair, replacement, operation and maintenance of such radio controls. Developer shall pay CVWD the sum of Four Thousand Five Hundred Dollars (\$4,500.00) as the cost of said radio controls prior to acceptance of the Domestic Water System by CVWD. CVWD will operate, maintain, and replace said radio controls at CVWD expense.

## 2. Developer Pre-Plan Check Requirements

(a) Prior to submitting the Plans to CVWD for initial plan check, Developer shall do the following:

(i) Concurrently with the execution of this Agreement by Developer, Developer shall deliver to CVWD a current preliminary title report ("PTR") dated within thirty (30) days of delivery thereof to CVWD. CVWD shall notify Developer of any title exceptions within the PTR which must be subordinated to the lien of this Agreement. Notwithstanding the foregoing, any monetary liens or liens of any covenants, conditions and restrictions must be subordinated to the lien of this Agreement. Developer shall have a period of thirty (30) days after the receipt of the written notice to cause the subordination of the items listed in CVWD's notice, as well as any monetary liens or liens of any covenants, conditions and restrictions.

(ii) Pay CVWD's Hydraulic Modeling Deposit and provide the Developer Property acreage, number of proposed dwelling units by phase, description and square footage of any commercial buildings, clubhouses, community centers, etc., domestic and landscape irrigation water daily demands and fire flow requirements in the form of a letter from the Fire Marshall.

(iii) Pay CVWD's Plan Check Deposit and any amounts necessary to reimburse CVWD for costs incurred in connection with review of the Plans.

(iv) Furnish to CVWD Exhibits "A" and "B" and notarized Agreement.

- (v) Complete and deliver to CVWD the Original Bill of Sale on a form supplied by CVWD.
  - (vi) Complete and deliver to CVWD, CVWD's Standard Form Development Category Declaration.
  - (vii) Furnish to CVWD written petitions for the annexation of the Developer Property to those Improvement Districts of CVWD which are applicable to the public services to be provided.
  - (viii) Complete and deliver to CVWD, CVWD's Standard Form Domestic Water Plan Checklist.
- (b) Prior to submitting Plans to CVWD for the second plan check, provide the following:
- (i) Developer, at its sole expense, shall furnish to CVWD recorded grant deeds and/or recorded easement document(s) and/or easements proposed to be dedicated on tract maps and/or public rights-of-way, if applicable, satisfactory to CVWD (in its sole and absolute discretion) as to content, form, location and width, which assure CVWD's unequivocal right to own, operate, maintain, replace, repair, enlarge, reconstruct, remove and improve the Domestic Water System. Developer shall ensure that all deeds of trust, mortgages and covenants, conditions and restrictions are re-conveyed as to fee ownership and/or subordinated as to the easements. Developer shall also ensure that the grant deeds and easements comply with the requirements of the Rules.
  - (ii) Engineer's estimate of construction costs.
  - (iii) Landscape irrigation plans and specifications for common areas and typical residential lots ("Landscape Plans") for the Developer Property in full and complete accordance with the Rules. The design and Landscape Plans shall be submitted to CVWD for review and written approval. CVWD shall approve or disapprove the Landscape Plans within a reasonable amount of time after submittal thereof to CVWD. In the event CVWD disapproves the Landscape Plans, Developer shall modify the Landscape Plans in accordance with the reasons given for disapproval and shall resubmit the revised Landscape Plans to CVWD for approval or disapproval. The foregoing procedure shall be continued until the Landscape Plans have been approved by CVWD. Developer hereby acknowledges and understands that CVWD may approve or disapprove of Developer's Landscape Plans, in its sole and absolute discretion. Developer represents that the Landscape Plans will conform to all applicable federal, state and local governmental rules, ordinances and regulations and all applicable environmental protection laws. To Developer's knowledge, after due inquiry, the Landscape Plans are complete, accurate, workable and are in compliance with all governmental requirements with respect thereto.



3. Developer Plan Approval/Release Requirements

Prior to the release/approval of the Plans by CVWD for the domestic water system, Developer shall furnish to CVWD the following:

- (a) Deliver the approved Plans in CVWD's approved electronic CAD standard and format. Digital submittal standard and format shall be at the sole discretion of CVWD.
- (b) Execute and deliver CVWD's Special Domestic Water System Installation Agreement in such form and content as shall be acceptable to CVWD.

4. Developer Pre-Construction Requirements

Following receipt of CVWD's approval of the design and Plans for the domestic water system and prior to the construction thereof, Developer shall do the following:

- (a) Furnish to CVWD, prior to the pre-construction meeting set forth in subsection (d), a Performance Guarantee Deposit in the amount of Five Thousand Dollars (\$5,000.00) or five percent (5%) of the amount of the construction costs of the Domestic Water System, whichever sum is greater, in immediately available funds, as security for the purpose of guaranteeing the completion of the construction of the Domestic Water System. The term "immediately available funds" shall mean cash, wire transfer or a cashier's check drawn on good and sufficient funds on a federally insured bank and made payable to the order of CVWD. CVWD shall not be required to keep the funds separate from its general funds. In the event CVWD invests the deposit, CVWD shall pay the minimum interest rate set forth in California Government Code Section 53079(b), less one (1) full percentage point. CVWD shall have the absolute right five (5) days after the mailing of a written notification to Developer by certified mail, at Developer's address herein, to draw all or a portion of the funds represented by the deposit as may be necessary to complete construction, including administrative and all other project costs or to secure compliance with this Agreement, including the construction of the Domestic Water System; immediately available funds shall be delivered on a case-by-case basis, for each contract based on the construction required as outlined herein.

The deposit, less draws, if any, will be returned to Developer on a case-by-case basis, upon CVWD declaring that the Domestic Water System is final and complete (including, but not limited to, the paving of road/street/right-of-way above such facilities) in CVWD's sole and absolute discretion. Developer hereby understands, acknowledges and agrees that the determination that the Domestic Water System is complete and final may come after CVWD has accepted such facilities.

- (b) Furnish to CVWD, prior to the pre-construction meeting set forth in subsection (d), CVWD's Standard Form Materials Submittal and an electronic copy of the recorded tract map of the Project.

(c) Employ, with written concurrence of CVWD, a qualified contractor or contractors (collectively, "Developer's Contractor") properly licensed by the State of California, to construct and complete the Domestic Water System.

(d) Arrange or cause Developer's Contractor to arrange for a preconstruction meeting with CVWD. At such meeting there shall be at least one (1) representative of CVWD, Developer and Developer's Contractor. At such meeting, Developer shall be required to pay to CVWD an Inspection Services Deposit for inspection as shall be required by CVWD. CVWD shall deduct from said Inspection Services Deposit all reasonable expense of CVWD, including, but not limited to, CVWD's agents, employees, consultants, or independent contractors. CVWD shall handle such deposit consistent with CVWD's rules, regulations and procedures with respect to such deposits. The Inspection Services Deposit is the minimum required amount and may be modified in CVWD's sole discretion, based on the project size, complexity, or impacts to CVWD. CVWD may elect to use consultants to perform the inspection services for a specific project based on either technical needs and/or staff availability.

(e) Obtain and maintain in full force and effect during the term of this Agreement, the insurance coverages listed on Exhibit "C" attached hereto and by this reference incorporated herein.

## 5. Developer Construction Requirements

Following satisfaction of the requirements set forth in Section 4, Developer shall construct the Domestic Water System in accordance with the following requirements:

(a) Developer shall, at its own expense, apply for and obtain all necessary consents, approvals, permits, authority, licenses or entitlements as shall be required for the construction and installation of the Domestic Water System, from all appropriate governmental authorities.

(b) Once the construction and/or installation of the Domestic Water System has commenced, Developer shall diligently prosecute the same to completion at no cost or expense to CVWD in conformance with the laws, rules and regulations of all governmental bodies and agencies, including those of CVWD.

(c) Developer shall perform, or cause to be performed, all construction and installation of the Domestic Water System in good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken and in compliance with the construction standards set forth herein. Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, construction and installation of the Domestic Water System.

(d) Developer shall name CVWD as an express third party beneficiary in its construction contract with Developer's Contractor.

(e) Developer shall ensure that CVWD is a named additional insured in the insurance policies provided by Developer's Contractor pursuant to the Developer's construction contract.

(f) Developer shall include CVWD and the CVWD Indemnitees as defined herein, as indemnitees in the indemnification clause in the construction contract between Developer and Developer's Contractor.

(g) Developer shall cause the Developer's Contractor to comply with the applicable Occupational Safety and Health Administration ("OSHA") standards and requirements, including, but not limited to, submitting construction and shoring plans.

(h) CVWD shall be under no obligation to protect the Domestic Water System to be constructed by or on behalf of Developer, or any material, tool, equipment and facilities until written acceptance thereof by CVWD. Prior to the acceptance, Developer shall bear all risk of loss or damage thereto by whatever cause inflicted. Developer shall bear the sole cost and responsibility to rebuild, repair, restore and replace or cause to be rebuilt, repaired, restored or replaced, and make good all injuries or damages to any portion of the Domestic Water System before completion and acceptance by CVWD and Developer shall bear the expense thereof.

(i) Developer shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Developer for the Domestic Water System and shall keep the Domestic Water System free and clear of any liens related to such charges. Developer shall indemnify CVWD for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the domestic water system in connection with such charges; provided, however, that Developer shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Domestic Water System or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Domestic Water System.

(j) The Domestic Water System shall be installed in strict compliance with the Plans. Any deviations from the approved Plans must have CVWD's prior written approval.

(k) Developer is required by this Agreement to install and construct certain improvements which will be dedicated to CVWD upon completion thereof in accordance with the terms of this Agreement. Notwithstanding the foregoing, if Developer does not believe that it is required to perform such work in the same manner and subject to the same requirements as would be applicable to CVWD had it undertaken construction, including, without limitation, the payment of prevailing wages and other public works requirements pursuant to the California Labor Code, the California Government Code and the California Public Contract Code, then Developer undertakes such construction at Developer's risk. Should it be determined in the future by either the legislature or a court of competent

jurisdiction that Developer was required to comply with some or all of the requirements as would be applicable to CVWD had it undertaken such construction, Developer shall indemnify, defend and hold harmless CVWD Indemnitees (as defined in Exhibit "D") from all Costs (as defined Exhibit "D") to which they may be subjected or put, by reason of or resulting from failure to comply with public works project requirements, including, but not limited to, the failure to pay prevailing wages or such other requirements as would be applicable to CVWD had it undertaken such construction.

(l) Developer hereby irrevocably appoints CVWD to inspect the furnishing and installation of the Domestic Water System. Developer shall provide CVWD representatives with reasonable access for inspection purposes. It is understood and agreed that CVWD's inspection personnel shall have the authority to enforce the Plans, which authority shall include requiring that all unacceptable materials, workmanship and/or installation be replaced, repaired or corrected by Developer's Contractor. Nothing herein shall be construed to grant CVWD direct control over Developer's Contractor or anyone but Developer or its designee. CVWD's inspection does not include inspection for compliance with safety requirements by Developer's Contractor. Any inspection completed by CVWD shall be for the sole use and benefit of CVWD, and neither Developer nor any third party shall be entitled to rely thereon for any purpose. CVWD does not undertake or assume any responsibility for or owe a duty to select, review or supervise the creation of the Domestic Water System.

(m) If the Inspection Services Deposit is insufficient or is expended during the course of construction, Developer shall pay CVWD an additional Inspection Services Deposit based on the Developer's schedule to complete the work.

(n) Developer's Engineer shall provide to CVWD all field engineering surveys associated with the construction of the improvements at Developer's sole expense. Developer shall promptly furnish to CVWD all field notes and grade sheets, together with all location, offset, and attendant data and reports, resulting from Developer's field engineering survey and/or proposed facility design changes, all of which have been prepared in accordance with generally accepted engineering practices, and allow CVWD sufficient time to approve or make any required design changes resulting therefrom prior to construction. Any inspection or review pursuant to this subsection shall be for the sole use and benefit of CVWD, and neither Developer nor any third party shall be entitled to rely thereon for any purpose.

6. Developer Requirements for Progress for Fire Protection, Progress for Domestic Water Service and Project Completion and Acceptance

(a) Upon completion and testing of the Domestic Water System, and prior to base paving, the Developer may request to progress (place in service) the Domestic Water System for fire protection only. No water meters will be issued at this stage. Notwithstanding anything contained in this Section 6, CVWD shall provide to the Developer Property, upon written request by Developer and satisfaction of CVWD's rules, regulations and procedures, water for fire protection

on such terms and conditions as shall be acceptable to CVWD, in its sole and absolute discretion. Developer acknowledges and agrees that provisions of water for fire protection or the use of the improvements in connection therewith neither is an acceptance of those improvements (which may only be accepted as provided in this Agreement) nor initiates the warranty period pursuant to subsection (c)(v) below.

- (b)
  - (i) Upon completion and testing of the Domestic Water System, and at the time of the Progress for Service request for domestic water service (issuance of meters), Developer's Engineer of Record shall provide signed and approved As-Built Drawings (electronic or hard copy) and a complete CVWD Asset Register form. Upon completion and testing of the Domestic Water System, and after base paving, the Developer may request to progress (place in service) the Domestic Water System for domestic water service. CVWD will issue water meter (s) for the approved phase of the Project and/or in accordance meter release schedules outlined in the Special Agreement(s) if any.
  - (ii) Prior to the first request for meter (s), Developer shall pay to CVWD all Water System Back-Up Facilities Charges, Water Demand Offset Fee, Reservoir Storage Fee if required by domestic water hydraulic modeling report and other charges related to the provision of domestic water service ("Domestic Water Charges") to the Developer Property. The Water Demand Offset Fee may be reduced up to 60 percent if non-potable water is utilized within the Project.
- (c)
  - (i) Upon completion and testing of the Domestic Water System, and after final paving, the Developer shall give CVWD notice of the same. CVWD shall make a final inspection and provide written notice to Developer either confirming that the Domestic Water System has been completed in accordance with the requirements of this Agreement or setting forth a punchlist of items that need to be completed or corrected. If CVWD provides such a punchlist, the above-referenced notice and inspection procedure shall be repeated upon completion of the punchlist items. Nothing herein shall be considered a waiver of any warranty, guarantee or other right in favor of CVWD.
  - (ii) Prior to the acceptance of the Domestic Water System by CVWD, Developer shall provide to CVWD a certified copy of the Covenants, Conditions and Restrictions for the Developer Property.
  - (iii) Upon completion and acceptance of the Domestic Water System, Developer shall prepare and execute a Certificate of Completion and Final Acceptance as to the Domestic Water System and record said notice with the Office of Recorder of the County of Riverside, State of California.
  - (iv) Upon receipt of the Certificate of Completion and Final Acceptance, the Bill of Sale provided in 2(a)(v) shall convey title of the Domestic Water

System at no expense to CVWD. The Domestic Water System shall be transferred to CVWD free of all liens and encumbrances.

(v) Developer warrants and represents to CVWD that the Domestic Water System shall be free from construction defects for twelve (12) months from the date of CVWD final acceptance. The Developer shall maintain in force the Performance Guarantee Cash Deposit required in 4 (a) above for the duration of the twelve (12) month guarantee.

(vi) Developer's Engineer shall provide to CVWD all field-engineering surveys associated with the construction of the Domestic Water System at Developer's sole expense. Developer shall promptly furnish to CVWD all field notes and grade sheets, together with all location, offset, and attendant data and reports, resulting from Developer's Engineer's field engineering surveys and/or proposed facility design changes, all of which have been prepared in accordance with generally accepted engineering practices. Any inspection or review pursuant to this subsection shall be for the sole use and benefit of CVWD, and neither Developer nor any third party shall be entitled to rely thereon for any purpose.

(d) CVWD shall repair, at Developer's expense all failures of the Domestic Water System which was furnished, installed and/or constructed due to faulty materials or installation, during the period commencing with the progress for service reference in 6(a) or 6(b) and within said twelve (12) month warranty period reference in 6(c). CVWD shall invoice Developer for such costs. Developer shall, within thirty (30) days after written demand therefor, pay or cause Developer's Contractor or surety to pay such costs shown on the invoice. Nothing in this subsection shall limit or abrogate any other claims, demands or actions CVWD may have against Developer or Developer's Contractor on account of damages sustained by reason of such defects, nor shall the provisions of this Section limit, abrogate or affect any warranties in favor of CVWD which are expressed or implied by law or set forth in any construction agreement.

## **7. Project Close Out Requirements**

After receipt of the Certificate of Completion and Final Acceptance the following requirements shall apply:

(a) Developer shall cause the Developer's Contractor and all subcontractors and materialmen to provide unconditional lien and material releases.

(b) Developer shall provide CVWD with a declaration by Developer's Contractor that the Developer's Contractor and all persons and entities who furnished material in the construction of the Domestic Water System have been paid in full.

(c) All permits, plans, construction surveys and operating manuals related thereto, shall be delivered to and become the sole property of CVWD, subject to Developer's warranty work and other obligations required hereunder.

(d) Upon a written request of Developer, CVWD will furnish to the appropriate departments of the appropriate city or county, the Bureau of Real Estate and/or Department of Corporations of the State of California, a letter from CVWD indicating that financial arrangements have been made for the construction of the Domestic Water System for the Developer Property and CVWD is willing to provide domestic water service to each and every Unit therein, provided Developer has done all of the following:

- (i) Complied with all provisions of this Agreement applicable at the time,
- (ii) Furnished CVWD a deposit in immediately available funds in the amount of Five Thousand Dollars (\$5,000.00) or five percent (5%) of the amount of the construction contract(s), whichever sum is greater,
- (iii) If required by the appropriate city or county, furnished CVWD with a copy of the bond filed with the appropriate city or county, guaranteeing the construction of required subdivision improvements, including the Domestic Water System provided for herein, and
- (iv) Paid to CVWD any amount due under the Domestic Water Charges.

8. General Provisions

(a) Developer shall defend, indemnify, and hold harmless CVWD and its officers, directors, administrators, representatives, consultants, engineers, employees and agents and their respective successors and assigns (collectively, "CVWD Indemnitees"), in accordance with the provisions of Exhibit "G" attached hereto and by this reference incorporated herein.

(b) Prior to the acceptance of the Domestic Water System by CVWD, Developer shall furnish to CVWD any and all documents reasonably requested by CVWD.

(c) In the event that construction of the Domestic Water System to be constructed hereunder has not begun within twelve (12) months of the date of approval of the Plans, CVWD shall have the right to terminate this Agreement. Following such termination, the Parties may enter into a new agreement which shall be subject to the fees, charges and Rules applicable at the time of the making of the new agreement.

(d) All notices under this Agreement shall be in writing and mailed (registered or certified, postage prepaid, return receipt requested), or by express carrier (return receipt requested) or hand delivered to Parties the addresses set forth below. All such notices shall, if hand delivered, or delivered by express carrier, be deemed received upon delivery and, if mailed, be deemed received three (3) business days after such mailing.

CVWD:

Coachella Valley Water District  
Attention: J. M. Barrett, General Manager

Post Office Box 1058  
Coachella, CA 92236

DEVELOPER:

(e) Time is of the essence of this Agreement and each and every term and provision thereof.

(f) This Agreement shall be construed as if prepared by all of the Parties hereto. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived.

(g) No delay on the part of any Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any Party hereto of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise of any other right, power or privilege hereunder.

(h) If any of the provisions of this Agreement are held to be contrary to law by a court or governmental administrative agency of competent jurisdiction, such provisions will not be deemed valid and subsisting, except to the extent permitted by law, and the parties shall, if possible, enter into negotiations for the sole purpose of arriving at a mutually satisfactory replacement for such provisions. The remainder of this Agreement shall not be affected thereby and shall continue in full force and effect.

(i) This Agreement may only be modified in a writing signed by both Parties.

(j) In the event of any litigation or other action between the Parties arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled, in addition to such other relief as may be granted, to its reasonable costs and attorneys' fees.

(k) The invalidity or illegality of any provision of this Agreement shall not affect the remainder of this Agreement.

(l) Each Party hereto agrees to execute and deliver such documents and perform such other acts as may be necessary to effectuate the purposes of this Agreement.

(m) Each individual executing this Agreement hereby represents and warrants that he or she has the full power and authority to execute this Agreement on behalf of the named Parties.



(n) Developer shall maintain and make available for inspection by CVWD during regular office hours, accurate records pertaining to the design, construction and installation of the improvements to be constructed by Developer.

(o) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

(p) If any payment due CVWD hereunder is not paid when due, Developer shall pay to CVWD an additional ten percent (10%) for each payment due as an administrative processing charge. The Parties agree that this late charge represents a fair and reasonable estimate of the costs that CVWD will incur by reason of late payment by Developer. Acceptance of any late charge shall not constitute a waiver of Developer's default with respect to the overdue amount or prevent CVWD from exercising any of the other rights and remedies available to CVWD. Any payment not paid when due shall bear simple interest at the rate of ten percent (10%) per annum (provided such amount shall not exceed the maximum rate allowed under California law) from the date due until paid in full.

(q) The Parties agree that any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the Federal or State courts located in Riverside County, California, and the Parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.

(r) This Agreement is entered into within the State of California, and all questions concerning the validity, interpretation and performance of any of its terms or provisions or any of the rights or obligations of the Parties hereto shall be governed by and resolved in accordance with the laws of the State of California.

(s) The terms and provisions set forth in this Agreement shall be deemed provisions, terms and/or covenants running with the Developer Property in accordance with applicable law, including, without limitation, Section 1468 of the California Civil Code and shall pass to and be binding upon the successor owners of the Developer Property. This Agreement shall burden the Developer Property and is binding on the successors, assigns and all persons acquiring ownership of any interest in, or any portion of the Developer Property. This Agreement shall benefit the Developer Property and inure to the benefit of the owners of the Developer Property. As such, all successor owners of the Developer Property will have any of the rights, responsibilities and liabilities of Developer, as if such person or entity originally executed this Agreement in place and stead of Developer. Each and every contract, deed or other instrument hereafter executed covering or conveying the Developer Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to such terms and conditions regardless of whether such terms and conditions are set forth in such contract, deed or other instrument. No transfer of the Developer Property shall relieve Developer of any responsibility or liability under this Agreement.

(t) Following fulfillment of the terms and conditions herein and acceptance by CVWD of the Domestic Water System to be constructed hereunder, CVWD will

provide irrigation water service to the Developer Property in accordance with the Rules.

(u) This Agreement, together with the exhibits attached hereto and other writings referenced herein, such as, but not limited to the Rules, contains the entire agreement between the Parties relating to the subject matter hereof and supersedes any and all prior agreements between the Parties, oral or written, and any and all amendments thereto. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

[REMAINDER OF PAGE LEFT BLANK – SIGNATURES ON NEXT PAGE]

**IN WITNESS WHEREOF**, the Parties have caused this Standard Domestic Water System Installation Agreement to be executed as of the day and year first set forth above.

Dated: \_\_\_\_\_

**DEVELOPER:**

By: \_\_\_\_\_  
(Name)  
(Title)

Dated: \_\_\_\_\_

**CVWD:**

**COACHELLA VALLEY WATER DISTRICT,  
a public agency of the State of California**

By: \_\_\_\_\_  
J. M. Barrett  
General Manager

**ATTEST:**

\_\_\_\_\_  
Sylvia Bermudez  
Clerk of the Board

## EXHIBIT LIST

EXHIBIT "A"	LEGAL DESCRIPTION OF DEVELOPER PROPERTY
EXHIBIT "B"	DEPICTION OF DEVELOPER PROPERTY
EXHIBIT "C"	INSURANCE REQUIREMENTS
EXHIBIT "D"	INDEMNITY PROVISION

EXHIBIT "A"

TO

STANDARD DOMESTIC WATER SYSTEM  
INSTALLATION AGREEMENT

LEGAL DESCRIPTION OF DEVELOPER PROPERTY

EXHIBIT "B"

TO

STANDARD DOMESTIC WATER SYSTEM  
INSTALLATION AGREEMENT

DEPICTION OF DEVELOPER PROPERTY

EXHIBIT "C"

TO

STANDARD DOMESTIC WATER SYSTEM  
INSTALLATION AGREEMENT

INSURANCE REQUIREMENTS

**EXHIBIT "C"**  
**INSURANCE REQUIREMENTS**

**1. MINIMUM SCOPE AND LIMIT OF COVERAGE.** Prior to and at all times after executing the Agreement, Developer shall procure and maintain, at its sole cost, for the duration of Developer's obligations hereunder, not less than the following coverage and limits of insurance with insurers and under policy forms satisfactory to CVWD.

(a) **Commercial General Liability Insurance** written on an occurrence basis of at least \$2,000,000 per occurrence/\$4,000,000 aggregate providing coverage for ongoing and products and completed operations, property damage, bodily injury, personal and advertising injury, property damage, and premises/operations liability.

(i) Coverage for Commercial General Liability insurance shall be at least as broad as Insurance Services Office Commercial General Liability coverage form (Occurrence Form CG 00 01) or exact equivalent.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(iii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO endorsement forms CG 20 10 07 04 and 20 37 07 04, or endorsements providing the exact same coverage.

(b) **Commercial Automobile Liability Insurance** written on a per occurrence basis of at least \$1,000,000 per occurrence for bodily injury and property damage.

(i) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto)

(ii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds.

(c) **Workers' Compensation Insurance/Employers Liability** as required by the State of California with statutory limits or be legally self-insured pursuant to Labor Code section 3700 *et. seq.* along with Employer's Liability limits of no less than \$1,000,000 per occurrence for bodily injury or disease. The workers compensation insurer shall agree, using form WC 00 03 13 or the exact equivalent to waive all rights of subrogation against Coachella Valley Water District, its employees, directors, officers, and agents.



**2. OTHER INSURANCE PROVISIONS.** All of Developer's policies shall meet the following requirements and contain all specified provisions/endorsements noted hereunder.

(a) Insurers shall provide CVWD at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that insurers shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. In the event any insurer issuing coverage hereunder does not agree to provide notice of cancellation to CVWD, Developer shall assume such obligation and provide written notice of cancellation in accordance with the above. If any of the required coverage is cancelled or expires during the term of this Agreement, Developer shall deliver renewal certificate(s) including endorsements to CVWD at least ten (10) days prior to the effective date of cancellation or expiration.

(b) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Developer's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by CVWD or any additional insureds shall not be called upon to contribute to any loss.

(c) All required insurance coverages shall contain a provision, or be endorsed, to waive subrogation in favor of the Coachella Valley Water District, its employees, directors, officers, and agents or shall specifically allow Developer to waive its right of recovery prior to a loss. Developer hereby waives its own right of recovery against Coachella Valley Water District, its employees, directors, officers, and agents.

(d) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, CVWD has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CVWD will be promptly reimbursed by Developer. In the alternative, CVWD may cancel this Agreement.

(e) CVWD may require Developer to provide complete copies of all insurance policies and endorsements in effect for the duration of the Agreement.

(f) Developer shall not allow any of its contractors, consultants, subcontractors or subconsultants to commence work under this Agreement until Developer has verified that contractors, subcontractors, consultants, or subconsultants have secured all insurance required herein, including waivers of subrogation and other endorsements. Policies of commercial general liability insurance provided by such contractors, consultants, subcontractors or subconsultants shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Developer, CVWD may approve different scopes or minimum limits of insurance for particular contractors, consultants, subcontractors or subconsultants.

(g) The general liability program and automobile liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by CVWD, and provided that such deductibles shall not apply to CVWD as an additional insured.

(h) Claims made policies are not acceptable.

3. **VERIFICATION OF COVERAGE.** Prior to execution of the Agreement, Developer shall file with CVWD evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance. All policies required shall be issued by acceptable insurance companies, as determined by CVWD. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

4. **LIABILITY NOT LIMITED.** Defense costs shall be payable in addition to the limits set forth herein. Requirements of specific coverage or limits contained herein are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve Developer from liability in excess of such coverage, nor shall it limit Developer's indemnification obligations to CVWD and shall not preclude CVWD from taking such other actions available to CVWD under other provisions of the Agreement or law.

5. **AVAILABLE LIMITS.** Notwithstanding the minimum limits set forth above, any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds.

6. **RESERVATION OF RIGHTS.** CVWD reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

EXHIBIT "D"

TO

STANDARD DOMESTIC WATER SYSTEM  
INSTALLATION AGREEMENT

INDEMNITY PROVISION

## **EXHIBIT "D"**

### **INDEMNITY**

Developer shall assume the defense of, indemnify and hold harmless CVWD and its officers, directors, administrators, representatives, consultants, engineers, employees and agents, and their respective successors and assigns (collectively, "CVWD Indemnitees") and each and every one of them, from and against all actions, causes of action, damages, demands, liabilities, costs (including, but not limited to reasonable attorneys' fees), claims, losses and expenses of every type and description (collectively, "Costs") to which they may be subjected or put, by reason of, or resulting from: (A) this Agreement; (B) the design, engineering and construction of the Domestic Water System; (C) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act or neglect on the part of Developer or its Representatives (as defined below); (D) any death, injury, property damage, accident or casualty caused or claimed to be caused by Developer or its Representatives or including Developer or its Representatives or its or their property; (E) any breach by Developer of its obligations under this Agreement; and (F) any enforcement by CVWD of any provision of this Agreement. The foregoing indemnity shall not apply to the extent any such Costs are ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of CVWD Indemnitees or any of them. CVWD shall make all decisions with respect to its representation in any legal proceeding concerning this Section. If Developer fails to do so, CVWD shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including fees and costs, to Developer and to recover the same from Developer. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable. No provision of this Agreement shall in any way limit the extent of the responsibility of Developer for payment of damages resulting from its operations or the operations of any of its Representatives. Developer further covenants and agrees to pay, or reimburse CVWD Indemnitees, or any of them for any and all Costs in connection with the investigating, defending against or otherwise in connection with Developer's obligations pursuant to this Agreement, except liability arising through the gross negligence or willful misconduct of CVWD Indemnitees, or any of them. CVWD shall have the right, at Developer's expense, to commence, to appear in, or to defend any action or proceeding arising out of or in connection with this Agreement, and in connection therewith, may pay all necessary expenses if Developer fails upon reasonable notice to so commence, appear in or defend any action or proceeding with counsel reasonably acceptable to CVWD. Developer shall be furnished with copies of bills relating to the foregoing upon request.

EXHIBIT "F"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

INSURANCE

**EXHIBIT "F"**  
**INSURANCE REQUIREMENTS**

1. **MINIMUM SCOPE AND LIMIT OF COVERAGE.** Prior to and at all times after executing the Agreement, Developer shall procure and maintain, at its sole cost, for the duration of Developer's obligations hereunder, not less than the following coverage and limits of insurance with insurers and under policy forms satisfactory to CVWD.

(a) **Commercial General Liability Insurance** written on an occurrence basis of at least \$2,000,000 per occurrence/\$4,000,000 aggregate providing coverage for ongoing and products and completed operations, property damage, bodily injury, personal and advertising injury, property damage, and premises/operations liability.

(i) Coverage for Commercial General Liability insurance shall be at least as broad as Insurance Services Office Commercial General Liability coverage form (Occurrence Form CG 00 01) or exact equivalent.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(iii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO endorsement forms CG 20 10 07 04 and 20 37 07 04, or endorsements providing the exact same coverage.

(b) **Commercial Automobile Liability Insurance** written on a per occurrence basis of at least \$1,000,000 per occurrence for bodily injury and property damage.

(i) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto)

(ii) The policy shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds.

(c) **Workers' Compensation Insurance/Employers Liability** as required by the State of California with statutory limits or be legally self-insured pursuant to Labor Code section 3700 *et. seq.* along with Employer's Liability limits of no less than \$1,000,000 per occurrence for bodily injury or disease. The workers compensation insurer shall agree, using form WC 00 03 13 or the exact equivalent to waive all rights of subrogation against Coachella Valley Water District, its employees, directors, officers, and agents.

2. **OTHER INSURANCE PROVISIONS.** All of Developer's policies shall meet the following requirements and contain all specified provisions/endorsements noted hereunder.

(a) Insurers shall provide CVWD at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that insurers shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. In the event any insurer issuing coverage hereunder does not agree to provide notice of cancellation to CVWD, Developer shall assume such obligation and provide written notice of cancellation in accordance with the above. If any of the required coverage is cancelled or expires during the term of this Agreement, Developer shall deliver renewal certificate(s) including endorsements to CVWD at least ten (10) days prior to the effective date of cancellation or expiration.

(b) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Developer's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by CVWD or any additional insureds shall not be called upon to contribute to any loss.

(c) All required insurance coverages shall contain a provision, or be endorsed, to waive subrogation in favor of the Coachella Valley Water District, its employees, directors, officers, and agents or shall specifically allow Developer to waive its right of recovery prior to a loss. Developer hereby waives its own right of recovery against Coachella Valley Water District, its employees, directors, officers, and agents.

(d) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, CVWD has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CVWD will be promptly reimbursed by Developer. In the alternative, CVWD may cancel this Agreement.

(e) CVWD may require Developer to provide complete copies of all insurance policies and endorsements in effect for the duration of the Agreement.

(f) Developer shall not allow any of its contractors, consultants, subcontractors or subconsultants to commence work under this Agreement until Developer has verified that contractors, subcontractors, consultants, or subconsultants have secured all insurance required herein, including waivers of subrogation and other endorsements. Policies of commercial general liability insurance provided by such contractors, consultants, subcontractors or subconsultants shall be endorsed to name Coachella Valley Water District, its employees, directors, officers, and agents as additional insureds using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Developer, CVWD may approve different scopes or minimum limits of insurance for particular contractors, consultants, subcontractors or subconsultants.

(g) The general liability program and automobile liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by CVWD, and provided that such deductibles shall not apply to CVWD as an additional insured.

(h) Claims made policies are not acceptable.

3. **VERIFICATION OF COVERAGE.** Prior to execution of the Agreement, Developer shall file with CVWD evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance. All policies required shall be issued by acceptable insurance companies, as determined by CVWD. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

4. **LIABILITY NOT LIMITED.** Defense costs shall be payable in addition to the limits set forth herein. Requirements of specific coverage or limits contained herein are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve Developer from liability in excess of such coverage, nor shall it limit Developer's indemnification obligations to CVWD and shall not preclude CVWD from taking such other actions available to CVWD under other provisions of the Agreement or law.

5. **AVAILABLE LIMITS.** Notwithstanding the minimum limits set forth above, any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds.

6. **RESERVATION OF RIGHTS.** CVWD reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



EXHIBIT "G"

TO

SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT

INDEMNITY

## **EXHIBIT "G"**

### **INDEMNITY**

Developer shall assume the defense of, indemnify and hold harmless CVWD and its officers, directors, administrators, representatives, consultants, engineers, employees and agents, and their respective successors and assigns (collectively, "CVWD Indemnitees") and each and every one of them, from and against all actions, causes of action, damages, demands, liabilities, costs (including, but not limited to reasonable attorneys' fees), claims, losses and expenses of every type and description (collectively, "Costs") to which they may be subjected or put, by reason of, or resulting from: (A) this Agreement; (B) the design, engineering and construction of the improvements; (C) the performance of or failure to perform, the work covered by this Agreement which is caused or occasioned by any act or neglect on the part of Developer or its Representatives (as defined below); (D) any death, injury, property damage, accident or casualty caused or claimed to be caused by Developer or its Representatives or including Developer or its Representatives or its or their property; (E) any breach by Developer of its obligations under this Agreement; and (F) any enforcement by CVWD of any provision of this Agreement. The foregoing indemnity shall not apply to the extent any such Costs are ultimately established by a court of competent jurisdiction to have been caused by the gross negligence or willful misconduct of CVWD Indemnitees or any of them. CVWD shall make all decisions with respect to its representation in any legal proceeding concerning this Section. If Developer fails to do so, CVWD shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including fees and costs, to Developer and to recover the same from Developer. The term "Representatives" shall mean employees, representatives, agents, contractors, subcontractors or any other persons directly or indirectly employed by any of the foregoing or reasonably under the control of any of the foregoing or for whose acts any of the foregoing may be liable. No provision of this Agreement shall in any way limit the extent of the responsibility of Developer for payment of damages resulting from its operations or the operations of any of its Representatives. Developer further covenants and agrees to pay, or reimburse CVWD Indemnitees, or any of them for any and all Costs in connection with the investigating, defending against or otherwise in connection with Developer's obligations pursuant to this Agreement, except liability arising through the gross negligence or willful misconduct of CVWD Indemnitees, or any of them. CVWD shall have the right, at Developer's expense, to commence, to appear in, or to defend any action or proceeding arising out of or in connection with this Agreement, and in connection therewith, may pay all necessary expenses if Developer fails upon reasonable notice to so commence, appear in or defend any action or proceeding with counsel reasonably acceptable to CVWD. Developer shall be furnished with copies of bills relating to the foregoing upon request.

APPENDIX A  
TO  
SPECIAL DOMESTIC WATER SYSTEM INSTALLATION AGREEMENT  
SCHEDULE

No.	Facilities Item	Reference	Required Size	Oversize	Construction of the facility described herein must be completed before domestic water service is initiated to the following portions within the Project*
1.	8-inch Pipeline	2(c)(vii)	X		Unit 1
2.	Reservoir Payment	2(c)(iv)	X		Unit 1