



WEST VALLEY WATER DISTRICT  
855 W. BASE LINE ROAD, RIALTO, CA 92376  
PH: (909) 875-1804 FAX: (909) 875-1849

REGULAR BOARD MEETING  
AGENDA

THURSDAY, FEBRUARY 3, 2022  
CLOSED SESSION - 6:00 PM • OPEN SESSION – 6:30 PM

Channing Hawkins, President  
Dr. Michael Taylor, Vice President  
Greg Young, Director  
Angela Garcia, Director  
Vacant, Director

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"In order to comply with legal requirements for posting of agendas, only those items filed with the District Secretary's office by noon, on Wednesday a week prior to the following Thursday meeting, not requiring departmental investigation, will be considered by the Board of Directors."

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On March 4, 2020, Governor Newsom declared a State of Emergency resulting from the threat of COVID-19. On September 16, 2021, Governor Newsom signed Assembly Bill No. 361 into law. Assembly Bill No. 361 amends Government Code section 54953(e) by adding provisions for remote teleconferencing participation in meetings by members of a legislative body, without the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions. The West Valley Water District adopted a resolution determining, by majority vote, that, as a result of the declared State of Emergency, a meeting in person would present imminent risks to the health or safety of attendees. Accordingly, it has been determined that all Board and Workshop meetings of the West Valley Water District will be held pursuant to Assembly Bill No. 361, the Brown Act and will be conducted via teleconference. There will be no public access to the meeting venue. Members of the public may listen and provide public comment via telephone by calling the following number and access code: Dial: (888) 475-4499, Access Code: 840-293-7790 or you may join the meeting using Zoom by clicking this link: <https://us02web.zoom.us/j/8402937790>. Public comment may also be submitted via email to the Board Secretary, Peggy Asche at [peggy@wvwd.org](mailto:peggy@wvwd.org). If you require additional assistance, please contact [peggy@wvwd.org](mailto:peggy@wvwd.org).

**OPENING CEREMONIES**

Call to Order  
Pledge of Allegiance  
Opening Prayer  
Roll Call of Board Members

## ADOPT AGENDA

### PUBLIC PARTICIPATION

*Any person wishing to speak to the Board of Directors on matters listed or not listed on the agenda, within its jurisdiction, is asked to complete a Speaker Card and submit it to the District Clerk. Each speaker is limited to three (3) minutes. Under the State of California Brown Act, the Board of Directors is prohibited from discussing or taking action on any item not listed on the posted agenda. Comments related to noticed Public Hearing(s) and Business Matters will be heard during the occurrence of the item.*

***Public communication is the time for anyone to address the Board on any agenda item or anything under the jurisdiction of the District. Also, please remember that no disruptions from the crowd will be tolerated. If someone disrupts the meeting, they will be removed.***

### PRESENTATION

- Oliver P. Roemer Water Filtration Facility Expansion Update.

### CONSENT CALENDAR

*All matters listed under the Consent Calendar are considered routine and will be enacted by one vote. There will be no separate discussion of these items unless a member of the Board of Directors, Staff Member, or any member of the public request a specific item(s) be removed for separate action.*

#### Consideration of:

1. January 13, 2022 – Special Board Meeting Minutes. **(Page No. 5)**
2. Adopt Resolution No. 2022-4, Proclaiming a Local Emergency, Ratifying the Proclamation of a State of Emergency by Governor Gavin Newsom on March 4, 2020, and Authorizing Remote Teleconference Meetings of the Legislative Bodies of West Valley Water District for the Period February 14, 2022, through March 14, 2022, Pursuant to Brown Act Provisions. **(Page No. 10)**
3. Letter of Support for Operation New Hope’s (ONH) Application Submission for the WIOA and Related Youth Program Services. **(Page No. 15)**
4. Second Amendment to Water Facilities and Service Agreement with Lennar Lytle, LLC. **(Page No. 18)**
5. Approval of Payment to Liebert Cassidy Whitmore, for Professional Services rendered in November 2021, Invoice No. 209634; \$750.00. **(Page No. 99)**
6. Approval of Payment to Hunt Ortmann Palffy Nieves, for Professional Services rendered in December 2021, Invoice No. 91190; \$22,666.50. **(Page No. 100)**
7. Approval of Payment to Carpenter Rothans & Dumont LLP, for Professional Services rendered in September 2021, Diana Gunn v. WVWD, Invoice No. 39375; \$3,193.74. **(Page No. 101)**

8. Approval of Payment to Carpenter Rothans & Dumont LLP, for Professional Services rendered in October 2021, Diana Gunn v WVWD, Invoice No. 39638; \$1,504.04.  
**(Page No. 102)**

## **BUSINESS MATTERS**

### **Consideration of:**

None

## **REPORTS - LIMITED TO 5 MINUTES MAXIMUM (Presentations or handouts must be provided to Board Members in advance of the Board Meeting).**

1. **Board Members**
2. **General Manager**
3. **Legal Counsel**

## **UPCOMING MEETINGS**

1. February 9, 2022 - West Valley Water District Finance Committee Meeting at 1:00 p.m., at District Headquarters.
2. February 9, 2022 - West Valley Water District Engineering, Operations & Planning Committee at 6:00 p.m., at District Headquarters.
3. February 10, 2022 – West Valley Water District External Affairs Committee Meeting at 6:00 p.m., at District Headquarters.
4. February 14, 2022 - West Valley Water District Human Resources Committee Meeting at 6:00 p.m., at District Headquarters.
5. February 15, 2022 – West Valley Water District Safety & Technology Committee Meeting at 6:00 p.m., at District Headquarters.
6. February 15, 2022 - San Bernardino Valley Municipal Water District Regular Board Meeting at 2:00 p.m., 380 E. Vanderbilt Way, San Bernardino, CA 92408.
7. February 17, 2022 – West Valley Water District Regular Board of Directors Meeting at 6:30 p.m. (6:00 p.m. Closed Session), at District Headquarters.
8. February 22, 2022 - West Valley Water District Policy Review & Oversight Committee Meeting at 6:00 p.m., at District Headquarters.
9. March 1, 2022 - San Bernardino Valley Municipal Water District Regular Board Meeting at 2:00 p.m., 380 E. Vanderbilt Way, San Bernardino, CA 92408.
10. March 3, 2022 – West Valley Water District Regular Board of Directors Meeting at 6:30 p.m. (6:00 p.m. Closed Session), at District Headquarters.
11. April 18, 2022 – Association of The San Bernardino County Special Districts Membership Meeting, at 6:00 p.m., hosted by West Valley Water District; located at Hilton Garden Inn, Fontana.

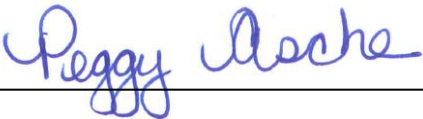
## CLOSED SESSION

- CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9(b): Number of Cases: Three (3).
- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – San Bernardino County vs. West Valley Water District et al. Case No. CIV SB 2113136.
- CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE APPOINTMENT – Pursuant to Government Code Section 54957: Title(s) Chief Financial Officer.
- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION - Pursuant to Paragraph One (1) of Subdivision (d) of the Government Code Section 54956.9 Case Name: Nadia Loukeh. vs West Valley Water District, Case No. CIVSB2116242.
- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION - Pursuant to Paragraph One (1) of Subdivision (d) of the Government Code Section 54956.9 Case Name: Diana Gunn. vs West Valley Water District, Case No. CIVSB2117195.

## ADJOURN

### DECLARATION OF POSTING:

I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Agenda at the District Offices on January 31, 2022.



Peggy Asche, Board Secretary

### Please Note:

Material related to an item on this Agenda submitted to the Board after distribution of the agenda packet are available for public inspection in the District's office located at 855 W. Baseline, Rialto, during normal business hours. Also, such documents are available on the District's website at [www.wvwd.org](http://www.wvwd.org) subject to staff's ability to post the documents before the meeting.

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, in order to attend or participate in the above-agendized public meeting should be directed to Peggy Asche, at least 72 hours in advance of the meeting to ensure availability of the requested service or accommodation. Ms. Asche may be contacted by telephone at (909) 875-1804 ext. 703, or in writing at the West Valley Water District, P.O. Box 920, Rialto, CA 92377-0920.

**MINUTES**  
**SPECIAL BOARD MEETING**  
**of the**  
**WEST VALLEY WATER DISTRICT**  
**January 13, 2022**

Attendee Name	Present	Excused	Absent
Board of Directors			
Channing Hawkins	<input checked="" type="checkbox"/> remote	<input type="checkbox"/>	<input type="checkbox"/>
Michael Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gregory Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Angela Garcia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Staff			
Shamindra Manbahal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Van Jew	<input checked="" type="checkbox"/> remote	<input type="checkbox"/>	<input type="checkbox"/>
Naseem Farooqi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Haydee Sainz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Peggy Asche	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Jadeski	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jon Stephenson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joanne Chan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Albert Clinger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jose Velasquez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal Counsel			
Robert Tafoya	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**OPENING CEREMONIES**

- Pledge of Allegiance – Led by Vice President Dr. Michael Taylor
- Opening Prayer – Led by Pastor Moore, Loveland Church
- Call to Order
- Roll Call of Board Members

**ADOPT AGENDA**

Director Greg Young motioned to adopt the agenda as is and Vice President Dr. Michael Taylor second the motion. Hearing no discussion, the following vote was taken:

WVWD

Minutes: 1/13/22

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Gregory Young, Director
<b>SECONDER:</b>	Michael Taylor, Director
<b>AYES:</b>	Channing Hawkins, Michael Taylor, Gregory Young
<b>ABSENT:</b>	None

**PUBLIC PARTICIPATION**

Peggy Asche, Board Secretary, informed President Hawkins that she received an email from Mr. Ralph Thrasher, Chairman of the Board of Fontana Chamber of Commerce, requesting to speak to the Board in full support of Angela Garcia for the new Director seat. Mayor Acquanetta Warren, City of Fontana, also asked for the Board of Director’s support for Angela Garcia, stating that she is more than qualified for the position. Ms. Sophia Holguin also supported Angela Garcia and stated that she will be a great help for the community. Director June Hayes, San Bernardino Valley Municipal Water District, reported that they are still meeting virtually to avoid COVID.

**CONSENT CALENDAR**

Director Greg Young motioned to adopt the Consent Calendar and Vice President Dr. Michael Taylor second the motion. Hearing no discussion, the following vote was taken:

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gregory Young, Director
<b>SECONDER:</b>	Michael Taylor, Director
<b>AYES:</b>	Channing Hawkins, Michael Taylor, Gregory Young
<b>ABSENT:</b>	None

1. DECEMBER 16, 2021 - REGULAR BOARD MEETING MINUTES.
2. ADOPT RESOLUTION NO. 2022-1 – PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZE REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF WEST VALLEY WATER DISTRICT FOR THE PERIOD JANUARY 14, 2021, THROUGH FEBRUARY 14, 2022, PURSUANT TO BROWN ACT PROVISIONS.
3. ADOPT RESOLUTION NO. 2022-2 - APPOINTMENT OF MEMBERS TO THE WEST END WATER DEVELOPMENT, TREATMENT AND CONSERVATION JOINT POWERS AUTHORITY (JPA).
4. APPROVAL OF PAYMENT TO TAFOYA LAW GROUP, APC, FOR PROFESSIONAL SERVICES RENDERED IN NOVEMBER 2021, INVOICE NO. 21-1011; \$15,815.60.
5. APPROVAL OF PAYMENT TO HUNT ORTMANN PALFFY NIEVES DARLING & MAH, INC., FOR PROFESSIONAL SERVICES RENDERED IN NOVEMBER 2021, INVOICE NO. 90760; \$14,819.00.

WVWD

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**BUSINESS MATTERS**

**6. PROCEDURAL REQUIREMENTS - DIVISION 1 VACANCY** (No Action Required).

Mr. Shamindra Manbahal, General Manager, reported that the process for Division 1 Vacancy for timing requirements and posting locations have been met. The notice of vacancy was posted at three locations within the boundaries of the District, advertised on the District’s website and the San Bernardino and Riverside County Elections Offices were notified. A letter of interest was requested to be submitted to the General Manager. There was one (1) letter of interest received from Angela Garcia. This letter of interest along with resume was then submitted to the Board of Directors for review.

**7. REVIEW CREDENTIALS OF PROSPECTIVE CANDIDATE** (No Action Required).

The Board of Directors have reviewed the one (1) letter of interest and resume submitted by Angela Garcia.

**8. SELECTION AND APPOINTMENT OF NEW DIVISION 1 DIRECTOR.**

Vice President Michael Taylor motioned to appoint Angela Garcia as the new Division 1 Board of Director. Director Greg Young second the motion and hearing no discussion, the following vote was taken:

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Taylor, Director
<b>SECONDER:</b>	Gregory Young, Director
<b>AYES:</b>	Channing Hawkins, Michael Taylor, Gregory Young
<b>ABSENT:</b>	None

**9. OATH OF OFFICE – NEW DIVISION 1 DIRECTOR.** (No Action Required)

President Channing Hawkins administered the oath of office for the newly appointed Governing Board Member, Angela Garcia.

After the administering of the oath, a group photo was taken to memorialize the moment. After the photo, President Channing Hawkins welcomed her as Board of Director of Division 1 and to please take a seat at the dais.

**10. DISCUSSION OF FILLING BOARD VACANCY SEAT FOR DIVISION 3.** (No Action Required)

General Council, Robert Tafoya, reported that the same procedure for Division 1 will be followed for Division 3. The Notice of Vacancy will be posted at three conspicuous locations within the District, Newspaper, and reported to San Bernardino and Riverside County Election Offices. The vacancy is opened until February 9, 2022.

WVWD

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## 11. CONFIRMATION OF STRATEGIC PLANNING SESSION FOR JANUARY 22-23, 2022.

Mr. Shamindra Manbahal just wanted to remind the Board that the dates January 22 – 23, 2022, have been reserved for the Strategic Planning Session. It was mentioned that it would be best to wait until the vacant seat is filled. Discussion ensued.

### **REPORTS - LIMITED TO 5 MINUTES MAXIMUM (Presentations or handouts must be provided to Board Members in advance of the Board Meeting).**

#### **1. Board Members**

- Director Angela Garcia thanked the Board members for appointing her as the Division 1 Director and thanked those who supported her. She wants to ensure the ratepayers that the water they drink is good quality water.
- Vice President Dr. Michael Taylor congratulated and welcomed Angela Garcia. Wished President Channing Hawkins a happy birthday and thanked staff for all that they do.
- Director Greg Young welcomed Angela Garcia and invited her to join him on the Engineering, Operations & Planning Committee.
- President Channing Hawkins thanked all for the birthday tidings. Thanked staff for all they do at the District and welcomed Angela Garcia.

#### **2. General Manager**

- Shamindra Manbahal welcomed the new Director, Angela Garcia.

#### **3. Legal Counsel**

- Robert Tafoya reported out of Closed Session stating that there were no reportable actions taken.

### **CLOSED SESSION**

- CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9(b): Number of Cases: Three (3).
- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Pursuant to Paragraph One (1) of Subdivision (d) of the Government Code Section 54956.9 Case Name: Nadia Loukeh vs. West Valley Water District, Case No. CIVSB2116242.
- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Pursuant to Paragraph One (1) of Subdivision (d) of the Government Code Section 54956.9 Case Name: Diana Gunn vs. West Valley Water District, Case No. CIVSB2117195.

WVWD

Minutes: 1/13/22



- CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – San Bernardino County vs. West Valley Water District et al. Case No. CIVSB2113136.

**ADJOURN**

There being no further business, the meeting adjourned at 7:12 p.m.

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**Channing Hawkins**  
**President of the Board of Directors**  
**of West Valley Water District**

**ATTEST:**

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**Peggy Asche, Board Secretary**

WVWD

Minutes: 1/13/22



**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** February 3, 2022  
**TO:** Board of Directors  
**FROM:** Shamindra Manbahal, General Manager  
**SUBJECT:** **ADOPT RESOLUTION NO. 2022-4, PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF WEST VALLEY WATER DISTRICT FOR THE PERIOD FEBRUARY 14, 2022, THROUGH MARCH 14, 2022, PURSUANT TO BROWN ACT PROVISIONS.**

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This item was brought to the Board of Directors during the January 13, 2022, Regular Board of Director's meeting as a method to continue remote teleconference meetings at West Valley Water District in accordance with the Brown Act. During that meeting, the Board of Directors approved a Resolution to continue remote teleconference meetings of West Valley Water District and will continue to evaluate the situation and renew this Resolution every 30-days thereafter until it is decided the resolution will no longer be needed.

**BACKGROUND:**

On March 17, 2020, due to the COVID-19 global pandemic emergency, Governor Newsom issued Executive Order N-29-20, which allowed local agencies to hold meetings via teleconferences and to make meetings accessible electronically without violating the open meetings laws in the Brown Act by relaxing the teleconferencing rules.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which replaced the text in Executive Order N-29-20. Executive Order N-08-21 stated the relaxed Brown Act provisions shall apply through September 30, 2021.

The recently signed Assembly Bill No. 361 provides additional flexibility for local agencies looking to meet remotely in order to continue providing the public with essential services during a proclaimed state of emergency. The goal of Assembly Bill No. 361 is "to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options."

Assembly Bill No. 361 allows a local agency to use teleconferencing without complying with certain Brown Act provisions in any of the following circumstances:

1. The legislative body holds a meeting during a proclaimed state of emergency, and state or

local officials have imposed or recommended measures to promote social distancing.

2. The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Assembly Bill No. 361 will be in effect on October 1, 2021. A local agency is authorized to use teleconferencing without complying with the teleconferencing requirements in the Brown Act when meetings are held during a declared state of emergency until January 1, 2024. In order to do so, the local agency must adopt a Resolution making the following findings by majority vote:

1. The legislative body has considered the circumstances of the state-of-emergency; and
2. Any of the following circumstances exist:
  - a. The state-of-emergency continues to directly impact the ability of the members to meet safely in person; or
  - b. State or local officials continue to impose or recommend measures to promote social distancing.
  - c. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter in order to continue to meet under these abbreviated teleconferencing procedures.

**FISCAL IMPACT:**

None

**STAFF RECOMMENDATION:**

Adopt Resolution No. 2022-4, authorizing remote teleconference of the legislative bodies of West Valley Water District for the period February 14, 2022, through March 14, 2022.

**Attachment**

Resolution No. 2022-4

Respectfully Submitted,

*Shamindra Manbahal*

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Shamindra Manbahal, General Manager

SM:pa

**ATTACHMENT(S):**

1. Resolution No. 2022-4

**RESOLUTION NO. 2022-4**  
**A RESOLUTION OF THE BOARD OF DIRECTORS**  
**OF THE WEST VALLEY WATER DISTRICT**  
**PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION**  
**OF A STATE OF EMERGENCY BY GOVERNOR GAVIN NEWSOM ON**  
**MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS**  
**OF THE LEGISLATIVE BODIES OF WEST VALLEY WATER DISTRICT FOR THE**  
**PERIOD FEBRUARY 14, 2022, THROUGH MARCH 14, 2022,**  
**PURSUANT TO BROWN ACT PROVISIONS**

**WHEREAS**, West Valley Water District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of the West Valley Water District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Gov't Code § 54950 et seq.), so that any member of the public may attend, participate, and watch the district's legislative bodies conduct their business; and

**WHEREAS**, the Brown Act, Government Code section 54950(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

**WHEREAS**, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the district's boundaries, caused by natural, technological, or human-caused disasters; and

**WHEREAS**, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or the state of emergency continues to directly impact the ability of the members to meet safely in person; and

**WHEREAS**, such conditions now exist in the district, specifically, a state of emergency has been proclaimed due to an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19); and

**WHEREAS**, the San Bernardino County Department of Health has recommended measures to promote social distancing; and

**WHEREAS**, the Board of Directors has determined that the state of emergency continues to directly impact the ability of the members to meet safely in person; and

**WHEREAS**, the Board of Directors does hereby find that the current state of emergency with respect to COVID-19, local official recommendations to promote social distancing, and conditions causing imminent risk to the health and safety of attendees have caused, and will

continue to cause, conditions of peril to the safety of persons with the district that are likely to be beyond the control of services, personnel, equipment, and facilities of the district, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

**WHEREAS**, as a consequence of the local emergency, the Board of Directors does hereby find that the legislative bodies of West Valley Water District shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953;

**NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE WEST VALLEY WATER DISTRICT** as follows:

**Section 1. Recitals** The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

**Section 2. Proclamation of Local Emergency.** The Board hereby proclaims that a local emergency now exists throughout the district and declares that meeting in person would not comply with local official recommendations to promote social distancing and would present imminent risk to the health and safety of attendees.

**Section 3. Ratification of Governor’s Proclamation of a State of Emergency.** The Board hereby ratifies the Governor of the State of California’s Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

**Section 4. Remote Teleconference Meetings.** The General Manager and legislative bodies of the West Valley Water District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

**Section 5. Effective Date of Resolution.** This Resolution shall take effect on February 14, 2022, and shall be effective until the earlier of (a) March 14, 2022, or (b) such time the Board of Directors adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the West Valley Water District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

**ADOPTED, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

\_\_\_\_\_  
Channing Hawkins  
President of the Board of Directors  
West Valley Water District

\_\_\_\_\_  
Peggy Asche  
Board Secretary



**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** February 3, 2022  
**TO:** Board of Directors  
**FROM:** Shamindra Manbahal, General Manager  
**SUBJECT:** LETTER OF SUPPORT FOR OPERATION NEW HOPE'S (ONH)  
 APPLICATION SUBMISSION FOR THE WIOA AND RELATED YOUTH  
 PROGRAM SERVICES

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**BACKGROUND:**

At the request of Board President Channing Hawkins, the West Valley Water District (WVWD) offers a letter of support for Operation New Hope's (ONH) application submission for the *WIOA and Related Youth Program Services* to the San Bernardino County Workforce Development Board. WVWD recognizes ONH's project objectives are key investments in serving youth with barriers, specifically 16 to 24 years old. The collaborative approach designed to prepare disconnected young job seekers through career development best practices will have a positive impact on our community and residents.

Consistent with WVWD's efforts to provide additional employment opportunities for individuals in the community, ONH's goal will address increase equity. The approval of the proposal would create an opportunity for the youth ONH serves to participate in IEWorks, a regional organization designed to strengthen the water and wastewater industry.

**FISCAL IMPACT:**

None

**STAFF RECOMMENDATION:**

Staff recommends that this item be submitted for consideration, and that the Board of Directors approve this item.

Respectfully Submitted,

*Shamindra Manbahal*

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Shamindra Manbahal, General Manager

SM:pa

**ATTACHMENT(S):**

1. Letter of Support - Operation New Hope



## BOARD OF DIRECTORS

**Channing Hawkins**  
*President, Board of Directors*

**Dr. Michael Taylor**  
*Vice President, Board of Directors*

**Greg Young**  
*Director*

**Angela Garcia**  
*Director*

**Vacant - Division 3**  
*Director*



## ESTABLISHED AS A PUBLIC AGENCY IN 1952

WEST VALLEY WATER DISTRICT'S MISSION IS TO PROVIDE  
OUR CUSTOMERS WITH SAFE, HIGH QUALITY AND RELIABLE  
WATER SERVICE AT A REASONABLE RATE AND IN A  
SUSTAINABLE MANNER.

## ADMINISTRATIVE STAFF

**Shamindra K. Manbahal**  
*General Manager*

**Van M. Jew**  
*Assistant General Manager  
Operations & Engineering*

**Peggy Asche**  
*Board Secretary*

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Date: January 31, 2021

San Bernardino County Workforce Development Board  
290 North D Street, Suite 600, San Bernardino, CA 92415

Attention: Fred Burks

Reference: No. EDA122-WDD-4431 Workforce Innovation and Opportunity Act  
and Related Youth Program Services

Re: Operation New Hope WIOA Youth Program

Dear San Bernardino Workforce Development Board Executive Committee,

The West Valley Water District (WVWD) offers this letter of support for Operation New Hope's (ONH) application submission for the *WIOA and Related Youth Program Services*. WVWD recognizes ONH's project objectives are key investments in serving youth with barriers, specifically 16 to 24 years old. The collaborative approach is designed to prepare disconnected young job seekers through career development best practices will have a positive impact on our community and residents.

The partnership between WVWD and ONH will support the overall outcomes of the San Bernardino County Workforce Development Board (SWDB) in developing sector-based career pathway programs. The partnership will also support our mutual long-term goals to increase equity and the development of disconnected youth in comprehensive career pathway opportunities through partnerships with certified job training, wraparound support, and placement into high-quality, sustainable careers in the healthcare, manufacturing, transportation, construction, and logistics sectors.

It is imperative that we continue the expansion of tangible opportunities for disconnected, foster, and disabled youth our region to create career opportunities for disadvantaged youth to succeed. WVWD fully supports ONH's proposal for funding through SBWD's *WIOA and Related Youth Program Services*, and I encourage you to give it the strongest possible consideration. Should you have any questions about this letter, please contact General Manager Shamindra "Rickey" Manbahal.

Respectfully,

Channing Hawkins, Board President

855 W. Base Line Rd., P.O. Box 920 / Rialto, CA 92377-0920

Ph: (909) 875-1804 / Fax: (909) 875-1849

[www.wvwd.org](http://www.wvwd.org)

FAX (909) 875-7284 Administration

FAX (909) 875-1361 Engineering

FAX (909) 875-1849 Customer Service



**BOARD OF DIRECTORS  
STAFF REPORT**

**DATE:** February 3, 2022  
**TO:** Board of Directors  
**FROM:** Shamindra Manbahal, General Manager  
**SUBJECT:** CONSIDER SECOND AMENDMENT TO WATER FACILITIES AND SERVICE AGREEMENT WITH LENNAR LYTLE, LLC

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**BACKGROUND:**

In May 2005 West Valley Water District (“District”) entered into a Water Facilities and Service Agreement (“Agreement”) with Lytle Development. The Agreement outlined certain facilities that Lytle Development was required to construct in exchange Equivalent Dwelling Unit (EDU) connection credits. The Agreement also allowed Lytle Development to assign rights and obligations to a future home builder/developer and they did just that in August 2005 (“First Amendment”). Lytle Development assigned certain facilities that they were required to construct to Lennar Homes along with a portion of the EDU connection credits.

**DISCUSSION:**

Lennar Homes has now completed its development and has constructed some of the facilities. Instead of Lennar Homes constructing the remaining facilities, the District and Lennar Homes would like to enter into an agreement (“Second Amendment”) where Lennar Homes would provide a one-time payment to the District to compensate the District for the capital costs of the facilities yet to be constructed. Attached as Exhibit A is a copy of the Second Amendment to Water Facilities and Service Agreement. This item was taken to the January Engineering, Operations and Planning Committee as well as the January Finance Committee. District’s legal counsel has reviewed the agreement.

**FISCAL IMPACT:**

The one-time payment to the District to compensate for the capital costs of the facilities is pursuant to the terms of the Second Amendment to Water Facilities and Service Agreement.

**STAFF RECOMMENDATION:**

Staff recommends that this item be submitted for consideration, and that the Board of Directors approve this item and authorize the General Manager to execute the necessary documents.

Respectfully Submitted,

*Shamindra Manbahal*

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Shamindra Manbahal, General Manager

LJ

**ATTACHMENT(S):**

1. Exhibit A - Second Amendment to WFSA

**MEETING HISTORY:**

01/12/22      Engineering, Operations and Planning Committee      REFERRED TO BOARD

# EXHIBIT A

**SECOND AMENDMENT TO WATER FACILITIES  
AND SERVICE AGREEMENT**  
**(Lytle Creek/Sycamore Flats)**

This Second Amendment to Water Facilities and Service Agreement ("**Second Amendment**") is entered into as of \_\_\_\_\_, 2022 ("**Effective Date**"), by and between LENNAR LYTLE, LLC, a Delaware limited liability company ("**Lennar**"), and WEST VALLEY WATER DISTRICT, a public agency of the State of California ("**District**"). Lennar and the District shall be referred to individually as a "**Party**" and collectively as the "**Parties.**"

**RECITALS**

A. On or about May 27, 2005, Lytle Development Company ("**Lytle**"), Pharris Sycamore Flats, LLC ("**Pharris**"), and the District entered into that certain Water Facilities and Service Agreement ("**Facilities Agreement**") to provide water service to the "Lytle Property" (as defined in the Facilities Agreement). Under the Facilities Agreement, Lytle and Pharris each agreed to construct certain of the "**Water Facilities**" (as defined in the Facilities Agreement) to provide service to the Lytle Property. In exchange for constructing the Water Facilities, the District agreed to provide fire flow and domestic water service to up to 4,300 equivalent dwelling units on the Lytle Property, defined in the Facilities Agreement as the "**Lytle Phase I Hook-Up Rights**" and the "**Lytle Phase II Hook-Up Rights.**" A copy of the Facilities Agreement is attached hereto as **Exhibit "1."**

B. On or about January 4, 2005, Lennar purchased from Lytle a portion of the Lytle Property, described in **Exhibit "2"** ("**Lennar Property**"). The Lytle Property is located in an area known as Improvement Area No. 6, which has now been developed by Lytle and Lennar with approximately 547 detached residential dwellings and related amenities.

C. On or about August 1, 2005, Lytle assigned to Lennar, and Lennar accepted, a portion of Lytle's rights and obligations under the Facilities Agreement pursuant to that "Partial Assignment and Assumption of Water Facilities and Services Agreement" ("**Assignment**"), attached hereto as **Exhibit "3."** The portion of Lytle's rights and obligations that Lennar assumed under the Assignment were described and referred to in the Assignment as the "**Assumed Water Facilities Obligations.**" The Assumed Water Facilities Obligations included design and construction of the "**Assumed Water Facilities**" (as defined in the Assignment) under the terms provided in the Facilities Agreement. Lytle also assigned to Lennar pursuant to the Assignment all of Lytle's rights and interest in and to the Lytle Phase I Hook-up Rights, subject to the applicable terms and conditions of the Facilities Agreement and Assignment.

D. On or about April 6, 2006, Lennar and the District entered into that First Amendment to Water Facilities and Service Agreement ("**First Amendment**") in order to amend certain of Lennar's and the District's obligations under the Facilities Agreement. References to the Facilities Agreement in this Second Amendment shall include and incorporate any changes made thereto by the First Amendment. The First Amendment is attached hereto as **Exhibit "4."**

E. On March 13, 2007, the County of San Bernardino formed Community Facilities District No. 2006-1 (Lytle Creek North) ("**CFD No. 2006-1**") to fund water facilities and other

public infrastructure improvements within Improvement Area No. 6. Some of the Assumed Water Facilities are eligible for reimbursement by CFD No. 2006-1.

F. Lennar has now completed its development of the Lennar Property and has constructed some but not all of the Assumed Water Facilities. Accordingly, Lennar and the District desire that the District will assume responsibility for the construction of the remaining Assumed Water Facilities in exchange for Lennar providing a one-time payment to compensate the District for the capital costs to do so. Lennar and the District further desire to enter into this Second Amendment to memorialize Lennar's satisfaction of the Assumed Water Facilities Obligations in exchange for the one-time payment to the District.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, the Parties hereby agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Terminology. Capitalized terms that are not defined in this Second Amendment shall have the meaning ascribed to them in the Facilities Agreement and the Assignment.
3. In-Lieu Fee. Within thirty (30) days of the Effective Date, Lennar shall make a one-time payment to the District in the amount of \$7,900,000 (seven million, nine hundred thousand dollars) ("**In-Lieu Fee**").
4. Full Satisfaction and Release. Upon payment of the In-Lieu Fee, Lennar shall be automatically deemed to have satisfied all of the Assumed Water Facilities Obligations and shall be released from any and all obligations and conditions under the Facilities Agreement.
5. Reimbursement for In-Lieu Fee. On and after the date hereof, should the District receive any funds from CFD No. 2006-1 for reimbursement of, or contribution towards, the construction costs of any of the Assumed Water Facilities ("**Third-party Funds**") to which the In-Lieu Fee was intended to otherwise satisfy, the District shall pay those Third-party Funds to Lennar.
6. Notices. Any notice to be provided pursuant to this Agreement shall be delivered to the following addresses:

If to Developer: Lennar Homes of California, LLC  
 980 Montecito Dr., Ste. 300  
 Corona, CA 92879  
 Phone: 951.817.3517  
 Email: Geoffrey.Smith@Lennar.com

If to District: West Valley Water District  
 855 W. Base Line  
 P.O. Box 920  
 Rialto, CA 92377  
 Phone: 909-875-1804  
 Attention: General Manager  
 Email: smanbahal@wvwd.org

7. Assignment. Lennar may assign its interest in this Second Amendment, at the discretion of the District and Lennar shall provide written evidence of any request for assignment to the District. The District will have 20 days to respond to any request for assignment, and the District's approval of any such request shall not be unreasonably withheld.

8. Severability. If any part of this Second Amendment is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Second Amendment shall be given effect to the fullest extent permitted by law.

9. Entire Agreement. This Second Amendment contains the entire agreement between the Parties with respect to the matters provided for herein.

10. Amendments. This Second Amendment may be amended or modified only by written instrument signed by all Parties.

11. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original.

12. Governing Law; Attorneys' Fees. This Second Amendment and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. In any action or proceeding between the Parties arising out of any of the terms and provisions of this Second Amendment, the prevailing party in such action or proceeding shall be awarded, in addition to damages, injunctive or other relief (to the extent permitted under this Second Amendment), its costs and expenses, including, without limitation, attorneys' fees.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Second Amendment (either express or implied) is intended to confer upon any person or entity, other than the District and Lennar, any rights, remedies, obligations or liabilities under or by reason of this Second Amendment.

14. Termination. This Second Amendment shall remain in effect until the Parties have fulfilled their respective obligations set forth herein, unless earlier terminated upon mutual written consent of the Parties.

15. Authority to Enter into Second Amendment. The Parties warrant that each has the legal capacity to enter into this Second Amendment. Each Party warrants that the individuals who have signed this Second Amendment has the legal power, right, and authority to make this agreement and bind the respective Parties they represent.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the Effective Date.

**LENNAR LYTLE, LLC**  
**By: Lennar Fresno, Inc., a California corporation, its sole member**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WEST VALLEY WATER DISTRICT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## Exhibit 1

**WATER FACILITIES AND SERVICE AGREEMENT**  
**(Lytle Creek/Sycamore Flats)**

THIS WATER FACILITIES AND SERVICE AGREEMENT (the "Agreement") is entered into this day of May 27<sup>th</sup>, 2005 ("Effective Date"), by and between the WEST VALLEY WATER DISTRICT, a public agency of the State of California ("District") and LYTLE DEVELOPMENT COMPANY, a California corporation, and PHARRIS SYCAMORE FLATS, LLC, a California limited liability company (collectively, "Lytle"). The District and Lytle are referred to in this Agreement collectively as the "Parties" and each individually as a "Party."

**RECITALS**

A. Lytle received approval from the County of San Bernardino Board of Supervisors for the development of Tract 15900, legally described on Exhibit "A" attached hereto and by this reference incorporated herein. ("Lytle Creek North").

B. Lytle also owns additional future development properties in the vicinity of the Lytle Creek North, including that certain development which is described on Exhibit "B" attached hereto and by this reference incorporated herein (the "Sycamore Flats Property").

C. Lytle Creek North and the Sycamore Flats Property are sometimes collectively referred to herein as the "Lytle Property."

D. Lytle has requested that the County of San Bernardino ("County") form a Community Facilities District ("CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Title 5, Division 2, Part 1, Chapter 2.5 of the California Government Code (commencing at Section 53311) (the "Act"), the boundaries of which shall be within the Lytle Creek North property.

E. Lytle desires that District provide water service for the Lytle Property and District is willing to provide such water service to such properties subject to the satisfaction of the conditions precedent set forth herein.

F. The Parties desire to enter into this Agreement to set forth certain commitments and agreements of the Parties with respect to (i) the construction, ownership and financial contributions of the Parties concerning certain water facilities required to service the Lytle Property and (ii) the provision of domestic water service for the Lytle Property and possibly other properties owned by Lytle or its affiliates in the vicinity.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH IN THIS AGREEMENT, AND UPON THE CONDITIONS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

## ARTICLE 1

### DESIGN AND CONSTRUCTION OF WATER FACILITIES

**1.1 Description of Water Facilities.** The water facilities to be constructed pursuant to this Agreement (the **“Water Facilities”**) are the facilities described and depicted on Exhibit **“C”** attached hereto and incorporated herein by this reference. The Water Facilities include a 4.0 MGD water filtration plant (the **“Water Filtration Plant”**). References in this Agreement to **“Phases”** of the Water Facilities shall mean the respective phases described on the Phasing Schedule attached hereto as Exhibit **“D”** and by this reference incorporated herein.

**1.2 Environmental Compliance.** The Parties acknowledge that (a) the final approvals and environmental clearances have not yet been obtained for Reservoir 7-3, Reservoir 7-5 (to be built by District), Reservoir 8-3, Well 55, the Water Filtration Plant, and the appurtenances thereto (collectively, the **“Compliance Facilities”**) and (b) and construction of such Compliance Facilities is conditioned upon obtaining all required governmental approvals and clearances. The District shall be the applicant and lead agency for all required applications, entitlements and governmental approvals for the Compliance Facilities (the **“Facility Entitlements”**), including compliance with the California Environmental Quality Act (**“CEQA”**); provided that Lytle shall provide or fund the entitlement costs for Reservoir 7-5, Reservoir 8-3 and the Water Filtration Plant, whether accruing before or after the Effective Date and the entitlement costs accruing for Reservoir 7-3 from and after September 1, 2004 including but not limited to (i) applying for and processing applications and approvals for the Facility Entitlements for the Compliance Facilities in accordance with all applicable environmental laws and (ii) any required condition, mitigation measures and/or mitigation land required to comply with requirements of the Federal Endangered Species Act, the California Endangered Species Act or other environmental laws for the planning, design, construction and installation of the Water Facilities, other than any mitigation land that may be required for Reservoir 7-3. Notwithstanding the foregoing, if mitigation land is required for Reservoir 7-3, Lytle hereby agrees to supply land satisfactory to the agency requiring the same. Such land shall be free and clear of all monetary liens and encumbrances including taxes and assessments. Upon transfer of such land to the transferee mandated by the agency requiring the mitigation land (whether in fee or by conservation easement), upon such terms and conditions required by such agency, District shall pay to Lytle the sum of Twenty-Five Thousand Dollars (\$25,000.00) per acre for the mitigation land so transferred. The term **“environmental laws”** shall include, without limitation, the CEQA and all other applicable state and federal environmental laws. Satisfaction of the provisions of this paragraph shall be a condition precedent to proceeding with construction of the Compliance Facilities. If acceptable to the agency having jurisdiction, Lytle may satisfy its mitigation obligations hereunder by conveying mitigation property from holdings of Lytle or its affiliates.

Notwithstanding anything contained in this Agreement to the contrary, District shall have no obligation to provide (a) the Lytle Phase I Hook-Up Rights (as defined in Section 3.1) until the final approvals and environmental clearances have been issued for Reservoir 7-3 and those conditions set forth in Section 3.2.1. have been satisfied; and (b) the Lytle Phase II Hook-Up Rights (as defined in Section 3.1) until the Facility Entitlements have been issued; and those conditions set forth in Section 3.2.1. have been satisfied.

**1.3 Lytle Covenant to Construct Water Facilities.** Subject to Section 1.2 above and Section 1.7 below, Lytle shall fund the cost of the design and construction of the Water Facilities other than Reservoir 7-5, the Pump Station 7-1 Upgrade (Project 7-2), Pump Station 6-2 (Project 7-10) and the Zone 8 Booster Station (Project No. 8-2) in accordance with this Agreement, such Water Facilities to be constructed by Lytle are referred to herein as the "Lytle-Build Water Facilities." Lytle shall contract with the Contractor (as defined in Section 1.9 ) to install and construct the Lytle-Build Water Facilities in accordance with this Agreement . Notwithstanding the foregoing, (a) District shall construct Reservoir 7-5 at its own cost and (b) District shall construct Pump Station 7-1, Upgrade (Project 7-2), Pump Station 6-2 (Project 7-10) and Zone 8 Booster Station (Project No. 8-2) (such facilities are referred to herein as the "District-Build Water Facilities") subject to Lytle's funding contribution set forth on Exhibit "E". Lytle shall be responsible for all costs and expenses of Reservoir 7-5 through completion and acceptance thereof by District except for the actual **Construction Costs** (as defined below), including but not limited to, CEQA costs, mitigation costs, site acquisition costs, design costs, entitlement and other pre-construction costs and expenses . Further, Lytle shall not be responsible for the operation and maintenance costs for such facility after construction thereof. The term "**Construction Costs**" shall mean the cost of actually constructing Reservoir 7-5, including (i) labor, materials, equipment, supplies and temporary facilities for grading, site development and construction of Reservoir 7-5; (ii) the cost of any insurance, inspections, testing, construction management, quality control, safety measures, traffic control, erosion control, construction permits, maintenance and repairs; and (iii) other construction related expenses.

**1.4 Deposit.** District acknowledges receipt of One Hundred Fifty Thousand Dollars (\$150,000.00) from Lytle ("**Deposit**"). The Deposit has been and shall be held by District and applied to costs and expenses incurred by District arising out of or in connection with the (i) preparation of the plans and specifications for the Water Facilities, except the Water Filtration Plant, by or on behalf of Engineering Resources or other professionals hired by the District, (ii) the review of plans and specifications, engineering, surveys and field notes, (iii) District construction and engineering inspections of the Water Facilities [except Reservoir 7-3] and (iv) any matter related to or arising out of the same. Exhibit "H" attached hereto and by this reference incorporated herein, sets forth an estimate of some of the costs and expenses which may be incurred by the District and reimbursed pursuant to this Section 1.4. Exhibit "E" includes an administrative fee to cover direct administration and internal costs in the amount of two percent (2%) of Net Facility Costs (as defined below). For purposes of this Section, Net Facility Costs shall mean Lytle's allocable share of the construction, design and engineering costs for the Water Facilities (but not environmental compliance costs for the Compliance Facilities) in accordance

with the cost sharing schedule attached hereto as Exhibit "E" and by this reference incorporated herein ("Cost Sharing Schedule"). The Parties understand and acknowledge that except for the items listed as "fixed contribution," the attachment is not intended as a cap or limitation of such costs to be incurred and paid hereunder and is intended to be a rough estimate of expected costs and expenses. Lytle hereby authorizes District to use, apply or retain all or any part of the Deposit to offset its costs and expenses related to the foregoing duties ("**Engineering and Inspection Costs**"). Notwithstanding the foregoing, District shall not use the Deposit for the Reservoir 7-5 Construction Costs. District shall not be required to keep the Deposit separate from its general funds and Lytle shall not be entitled to interest on the Deposit. If there are any funds left in the Deposit after the completion or acceptance of the Lytle-Build Water Facilities, such excess shall be returned to Lytle within thirty (30) days following completion and acceptance of the Lytle-Build Water Facilities. If further funds are necessary, Lytle shall, within thirty (30) days after written demand therefor, deposit cash with District in an amount reasonably determined by District, sufficient to pay for the costs and expenses to be included hereunder. Notwithstanding the foregoing, Lytle will deposit with District the estimated construction engineering fees for each water facility as set forth in the Phasing Schedule attached hereto as Exhibit "D."

## 1.5 Plans, Specifications and Standards.

**1.5.1 Design Build for Water Filtration Plant.** Lytle shall, at its own cost and expense, design and construct the Water Filtration Plant (4 MGD) in accordance with the District's design parameters, specifications and requirements as may be reasonably determined by District from time to time ("**District Specifications and Requirements**").

**1.5.2 Plans for Water Filtration Plant.** Lytle shall employ, or cause to be employed at its sole cost and expense, a qualified professional engineering firm (the "**Design-Build Engineer**") to plan, design and prepare detailed construction plans and specifications for the Water Filtration Plant in full and complete accordance with the District's Specifications and Requirements. Design-Build Engineer shall complete the design and detailed construction plans and specifications and the same shall be submitted to District as set forth below. All such planning and design work and detailed construction plans and specifications performed and prepared by Design-Build Engineer ("**DB Design Documents**") shall be submitted to District for District's review and written approval prior to the beginning of any construction of the Water Filtration Plant. District will review, comment on, and approve or request reasonable changes to DB Design Documents in writing within ten (10) business days after submission by Lytle. In the event District disapproves all or a portion of the DB Design Documents, Lytle shall cause Design-Build Engineer to modify the DB Design Documents in accordance with the reasons given for disapproval and shall within thirty (30) days after disapproval by District submit the revised DB Design Documents to District for approval or disapproval. The foregoing procedure shall be continued until the DB Design Documents have been approved by the District. All cost and expense of District's review (including, but not limited to, agents, employees and independent contractors) shall be deducted from the amounts payable by Lytle to District pursuant to Section

1.4. Lytle represents that the DB Design Documents will conform to all applicable federal, state and local governmental rules, ordinances and regulations and all applicable environmental laws. Lytle's submission of the DB Design Documents for the Water Filtration Plant to District shall evidence Lytle's representation and warranty to District that such DB Design Documents are, to the best of Lytle's knowledge, after due inquiry, complete, accurate, workable and in compliance with the Water Filtration Plant Design Requirements and all governmental requirements with respect thereto.

**1.5.3 Other Lytle-Build Water Facilities.** Lytle shall, at its own cost and expense, construct or cause to be constructed, the Lytle-Build Water Facilities (other than the Water Filtration Plant) in accordance with the District's Specifications and Requirements. District has hired, or will hire, at Lytle's cost and expense, Engineering Resources, Associated Engineers or another mutually acceptable engineering firm to prepare and/or finalize the plans and designs and prepare detailed construction plans for the Lytle-Build Water Facilities (other than the Water Filtration Plant).

**1.6 Construction Phasing .** Lytle agrees to install and construct, or cause the installation and construction of, the Lytle-Build Water Facilities within the time frames set forth in the Phasing Schedule attached hereto as Exhibit "D," subject to Force Majeure Delays (as defined in Section 1.13 below). Notwithstanding anything contained in this Agreement to the contrary, District shall have no obligation to provide (a) the Lytle Phase I Hook-Up Rights until the conditions set forth in Phase I of the Phasing Schedule and those conditions set forth in Section 3.2.1. are satisfied; and (b) the Lytle Phase II Hook-Up Rights until the conditions set forth in Phase I, Phase II and Phase III of the Phasing Schedule and those conditions set forth in Section 3.2.1. are satisfied.

**1.7 Cost Sharing.** Lytle and District each agree to bear their respective portions of the costs for the Water Facilities in accordance with the cost schedule attached hereto as Exhibit "E" . Notwithstanding the foregoing, the Parties acknowledge and agree that the District's "over-sizing" contributions set forth on the Cost Sharing Schedule for the Water Filtration Plant shall be fixed at the amounts set forth on said Cost Sharing Schedule (Exhibit "E"). District shall not be responsible for any amount allocated to design for the oversizing of the Water Facilities. District's contribution for pipelines on the Cost Sharing Schedule is only an estimate. Lytle shall obtain bids for the pipelines with the oversizing and bids for the pipelines without oversizing from such contractors and materialmen as shall be approved by District prior to the bid. Lytle shall submit both bids to District. If the District approves the bids, District shall pay the difference between the two bids at such time as set forth herein.

Lytle has or shall negotiate with the County of San Bernardino ("San Bernardino") to attempt to acquire the requested parcel of property for Reservoir 7-5 within Glen Helen Regional Park. Lytle hereby request and District hereby agrees to cooperate with Lytle to attempt to acquire such parcel pursuant to an interagency transfer provided that the provisions of Section 2.2 shall apply. Notwithstanding anything in this Agreement to the contrary, District

shall have no obligation to provide the Lytle Phase II Hook-Up Rights until Lytle has obtained and transferred to District the parcel of property for Reservoir 7-5, pursuant to the terms hereof.

**1.8 Construction Costs.** Lytle shall cause to be paid, as they come due, the construction costs for the Lytle-Build Water Facilities. Within thirty (30) days after completion and formal acceptance by District of such Water Facilities, Lytle shall provide District with an itemized accounting showing all reasonable costs and expenses incurred by Lytle for material for the over-sizing of the Water Filtration Plant and certain specified pipelines (“**Oversized Facilities**”) together with contracts and invoices reasonably evidencing the cost and expenses so incurred. District shall reimburse Lytle for District’s “over-sizing” contribution for the Oversized Facilities as set forth on the Cost Sharing Schedule within thirty (30) days of receipt of the information to be included with the contribution request as provided above. If District disputes any portion of the contribution request, District shall promptly reimburse Lytle as set forth above for the portion of the contribution request not in dispute. The Parties will then attempt in good faith to promptly resolve through negotiation any dispute, claim or controversy arising out of or relating to the costs and expenses reflected on the contribution request. Either Party may initiate negotiations by providing written notice in letter form to the other Party, setting forth the subject of the dispute. The recipient of such notice will respond in writing within five (5) days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each Party with full settlement authority will meet at a mutually agreeable time and place within ten (10) days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the matter will be submitted to JAMS, or its successor, for arbitration.

Any dispute, claim or controversy arising out of or relating to the costs and expenses reflected on the contribution request shall be determined by arbitration in San Bernardino County, California, before a sole arbitrator, in accordance with the laws of the State of California for agreements made in and to be performed in that State. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. The arbitrator shall, in the award, allocate all of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys’ fees of the prevailing Party, against the Party who did not prevail.

**1.9 Construction of Water Facilities.** District shall be responsible for the Construction Costs of Reservoir 7-5 and the other District-Build Water Facilities subject to Lytle’s contribution commitment. Lytle shall be responsible for all other costs and expenses associated with the creation of Reservoir 7-5 (except operation and maintenance costs after acceptance thereof) as are particularly set forth in Section 1.3 above. Lytle shall construct or cause the construction of the Lytle-Build Water Facilities in accordance with the requirements of the District and in accordance with the following:

(a) Lytle shall employ a qualified and properly licensed, insured and bonded contractor or contractors ("**Contractor**") to construct and complete the Lytle-Build Water Facilities at its sole cost and expense, except for any reimbursable amounts set forth herein.

(b) Except as set forth in Sections 1.2 and 1.7 above, Lytle shall, at its own cost and expense, apply for and obtain all necessary consents, approvals, grading and construction permits, authority, and licenses or entitlements as shall be required for the design, construction and installation of the Lytle-Build Water Facilities, if any, from all appropriate governmental authorities.

(c) Once construction of the Lytle-Build Water Facilities has commenced, Lytle shall diligently prosecute the same to completion at no cost or expense to District (except as otherwise provided herein) in conformance with the laws, rules and regulations of all governmental bodies and agencies. Lytle shall comply with all of the District's standard rules, regulations, procedures and requirements regarding construction of the Lytle-Build Water Facilities,

(d) Except as provided herein, Lytle shall directly pay all costs associated with the construction of the Lytle-Build Water Facilities, including, but not limited to, furnishing of materials, and Lytle shall keep District free and harmless from such costs.

(e) Lytle shall perform, or cause to be performed, all construction and installation of the Lytle-Build Water Facilities in a 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. Lytle 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 Lytle-Build Water Facilities.

(f) Lytle shall require the Contractor to pay prevailing wages. Lytle shall also comply with applicable provisions of the California Labor Code, the California Government Code and the California Public Contract Code relating to public works projects, as required by the procedures and standards of District with respect to the construction of its public works projects. Lytle hereby agrees to indemnify and hold harmless District and its officers, directors, administrators, consultants, engineers, employees

and agents (“**Indemnified Parties**”) from any and against all actions, causes of action, damages, claims, losses and expenses (including attorneys’ fees) (“**Costs**”) of every type and description to which they may be subjected or put by reason of, or resulting from Lytle’s failure to comply with the foregoing.

(g) On or before the beginning of construction of the Lytle-Build Water Facilities, Lytle shall be required to furnish labor and material payment bonds and contract performance bonds, in form and substance reasonably approved by the District, in an amount equal to one hundred percent (100%) of the costs of the Lytle-Build Water Facilities. Notwithstanding the foregoing, the bonds for the Water Filtration Plant (Project 7-8), the Reservoir for the Water Filtration Plant and for Well 55 (“WP Plant Reservoir”) and the Pump Station for the WP Plant Reservoir to North Village Zone 7 (collectively, “Water Filtration Plant Facilities”) shall not be required to be furnished to the District until ten (10) days after District approves the Plans and Specifications for the Water Filtration Plant Facilities pursuant to Section 1.5.2 above. The bond(s) shall be that of a responsible surety company, licensed to do business in California and shall remain in effect until the entire cost of the Lytle-Build Water Facilities have been paid in full. Such bonds will name Lytle and the District as obligees and will be issued by insurance or surety companies approved by the District, which approval shall not be unreasonably withheld. The bonds shall state the following:

- (i) That it is conditioned to secure the completion of the Lytle-Build Water Facilities, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and materialmen for twelve (12) months following completion of construction.
- (ii) That the construction work shall be completed by the Contractor, or, on the Contractor’s default, the surety; and
- (iii) That the surety will defend and indemnify District against all loss, cost, damage, expense and liability arising out of or connected with the failure to complete the Water Facilities in accordance with this Agreement.

Upon satisfactory completion and acceptance of the Water Filtration Plant Facilities, District shall, upon written request of Lytle, execute a notice to the surety of such completion and acceptance. Upon satisfactory completion and acceptance of the remaining Lytle-Build Facilities, District shall, upon written request



of Lytle, execute a notice to surety of such completion and acceptance.

(h) Lytle shall cause the Contractor to comply with the applicable OSHA standards and requirements, including following OSHA safety standards and submitting construction and shoring plans as required.

(i) District shall be under no obligation to protect the Lytle-Build Water Facilities, or any material, tool, equipment and facilities until written acceptance thereof by District. Prior to acceptance, Lytle shall bear all risk of loss or damage thereto by whatever cause inflicted. Lytle shall 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 Lytle-Build Water Facilities before completion and acceptance by District and shall bear the expense thereof.

**1.10 Changes in Work.** The Water Facilities shall be installed in strict compliance with the approved plans and specifications and deviations from the approved plans (“**Changes in Work**”) must be approved by District. District expects that any Change in Work submitted for the required approval by District or its representatives will be approved or denied (any such denial to be in writing, stating the reasons for denial and the actions, if any, that can be taken to obtain later approval) within ten (10) business days of receipt by District or its representatives thereof. Such approval of a Change in Work when required hereunder shall not be unreasonably withheld. Notwithstanding the above, no Changes in Work will be undertaken without a written agreement between Lytle and the District regarding cost allocation.

### **1.11 Inspection/Completion.**

**1.11.1 Right of Inspection.** Lytle hereby irrevocably grants to District the right to inspect the furnishing and installation of the Water Facilities. In addition to the foregoing, District specifically shall have the right to retain, at Lytle's sole cost and expense, the services of a duly qualified inspector (“Filtration Plant Inspector”) with such credentials and experience as shall be reasonably determined by District for the inspection of the construction and installation of the Water Filtration Plant. Lytle shall provide District representatives with reasonable access for inspection purposes. It is understood and agreed that District’s inspection personnel shall have the authority to enforce the construction plans and specifications, which authority shall include requiring that all unacceptable materials, workmanship and/or installation be replaced, repaired or corrected by the Contractor. All reasonable cost and expense of District’s inspection (including, but not limited to, the Filtration Plant Inspector and other agents, employees and independent contractors) shall be deducted from the amounts payable by Lytle to District pursuant to Section 1.4. Any inspection does not include inspection for compliance with safety requirements by the Contractor. Any inspection completed by District shall be for the sole use and benefit of District and neither Lytle nor any third party shall be entitled to rely thereon for any

purpose. District does not undertake or assume any responsibility for or owe a duty to, select, review or supervise the creation of the Lytle-Build Water Facilities.

**1.11.2 Notice of Completion to District** Within ten (10) business days after receipt of written notice of substantial completion from Lytle for each applicable Lytle-Build Water Facility, District shall make a final inspection of any such Water Facility so completed and provide written notice to Lytle either (i) confirming that such Water Facility has been completed in accordance with the requirements of this Agreement or (ii) setting forth a punchlist of items that need to be completed or corrected. If District provides such a punchlist, the above-referenced notice and inspection procedure shall be repeated upon completion of the punchlist items. Upon satisfactory completion of all punchlist items, District shall execute a written notice of acceptance of the Lytle-Build Water Facility; provided that such acceptance shall not waive any right of District contained herein or that is expressed or implied by law. After District accepts an applicable Lytle-Build Water Facility, the District shall be solely responsible for maintenance of the applicable Water Facility(ies). Notwithstanding the foregoing, Lytle shall be required to repair and maintain the applicable Water Facility(ies) until District's final acceptance of the same, without cost to the District.

**1.11.3 Recordation of Notice of Completion.** Upon completion and acceptance of each applicable Lytle-Build Water Facility, Lytle shall prepare, execute and deliver to District a notice of completion of such Water Facility and cause the Contractor and all subcontractors and materialmen to provide lien and material releases to the District. Notwithstanding the foregoing, if Lytle contracts separately from other improvements for one or more of the Lytle-Build Water Facilities, upon the completion of such Lytle-Build Water Facilities, Lytle shall prepare and execute a Notice of Completion as to such Lytle-Build Water Facilities.

**1.11.4 Delivery of Bill of Sale.** Upon completion of each applicable Lytle-Build Water Facility by the Contractor and completion of the final inspection, testing and written acceptance thereof by District, Lytle shall execute and deliver a bill of sale in the form and content acceptable to District. The bill of sale shall convey title of the applicable Lytle-Build Water Facility to District, at no cost and expense to the District. Each applicable Lytle-Build Water Facility shall be transferred to District free of all liens and encumbrances.

**1.11.5 Provision of Water Services.** Upon acceptance of each applicable Water Facility by District, District shall assume all rights and obligations of ownership thereof. Upon the satisfaction of the conditions precedent set forth herein (including those set forth in Section 3.2 below) and Force Majeure Delays, the District shall provide or cause to be provided, water service as provided in Article 3 below in accordance with and subject to the District's rules, regulations, ordinances and policies, as may be amended from time to time, including the payment of fees, charges and levies imposed by the District, except the facilities fees required by District. Lytle acknowledges that the water service rights under this Agreement may be subject to general curtailment requirements due to unavailability of water, provided that any such

curtailment shall not be applied on a discriminatory basis against Lytle or any successors to water services under this Agreement.

**1.12 Maintenance and Warranties.** Lytle warrants and represents to the District that the Water Filtration Plant and other Lytle-Build Water Facilities shall be free from construction defects (and shall correct or cause to be corrected any such defects). Lytle shall provide a two (2) year bond (following the date of final acceptance by District of an applicable Water Facility) reasonably acceptable in form and substance to the District for such defects in materials and workmanship, which appear within said period. Such defects will be repaired, replaced, or corrected by Lytle and/or the surety, at no cost to District. Lytle, and/or the surety shall commence such repair, replacement or correction of any such defects within forty-eight (48) hours after written notice thereof by District to Lytle. Notwithstanding the above-provided for forty-eight (48) hour period, District shall have the unqualified right to immediately make any emergency repairs necessary as determined by District in its sole and absolute discretion, to eliminate any threat to the Public's health, safety and welfare, at Lytle's sole cost and expense, and shall complete such repairs, replacement or correction as soon as practicable. Any warranties, guarantees or other evidences of contingent obligations of third persons with respect to the Lytle-Build Water Facilities shall be delivered to District as part of the transfer of title; provided that Lytle shall retain the right to enforce such warranties and rights during the two (2) year warranty period set forth above, and to the extent the District receives payments or other compensation pursuant to the terms of such warranties, guarantees or other evidences of contingent obligations of third parties as a result of any defect, which such defect has already been repaired or corrected by Lytle, the District shall remit such payment or compensation directly to Lytle.

**1.13 Force Majeure Delay.** Any of the following events, matters or things shall constitute a "Force Majeure Delay" for purposes of this Agreement to the extent such events, matters or things delay a Party's performance (other than the payment of money) hereunder on a critical path basis: war, declared or not, hostilities, belligerence, blockade, revolution, insurrection, riot, or public disorder; expropriation, requisition, confiscation, or nationalization; export or import restrictions by any United States Governmental Authorities; closing of or accidents to harbors, docks, canals, or other assistances to or adjuncts of the shipping or navigation of or within any place; rationing or allocation, whether imposed by law, decree, or regulation, or by compliance of industry at the insistence of any United States Governmental Authorities; unusually severe earthquake, volcano, tide, tidal wave, or perils of the sea; abnormally severe weather conditions; accidents of navigation or breakdown or injury of vessels; epidemic or quarantine; strikes, terrorism, explosions and accidents; unavailability of materials; any other cause beyond the reasonable control of the respective Parties hereto and/or the inability to obtain required right-of-way or real property from third parties on a commercially reasonable basis or to obtain required Facility Entitlements for the Compliance Properties in accordance with Section 1.2 above; provided, however, that any such event, matter or thing shall constitute a Force Majeure Delay only if such event, matter or thing is beyond the reasonable

control of the Party whose performance has been delayed and would not have been avoided had such Party used reasonable care.

**1.14 Insurance.** Prior to, at all times during the construction and until the acceptance of the Lytle-Build Water Facilities under this Agreement by District, Lytle shall, and shall cause the Contractor to, comply with the following insurance requirements:

- (a) Worker's Compensation and Employer's Liability:
  - (i) State Worker's Compensation - coverage as required by law;
  - (ii) Employer's Liability with limits of at least \$1,000,000 per occurrence.
- (b) Automobile Liability for Bodily Injury and Property Damage: \$5,000,000 per person, \$5,000,000 per occurrence.
- (c) Commercial General Liability for Bodily Injury and Property Damage: \$5,000,000 per person, \$5,000,000 per occurrence.
- (d) Builder's Risk Insurance covering no less than the total construction costs of the Lytle-Build Water Facilities. Coverage shall be on an "all risks basis." The coverage shall include: (i) vandalism coverage which continues in force until acceptance of the Lytle-Build Water Facilities by the District, (ii) automatic inclusion of underground exposures, (iii) coverage to be on a replacement basis, and (iv) waiver of co-insurance penalties.

These policies may contain an aggregate limit not less than the occurrence limit. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

- (e) All insurance required pursuant to the express provisions of this Agreement shall:
  - (i) Provide that coverage shall not be revised, cancelled or reduced until at least thirty (30) days' written notice of such revision, cancellation or reduction shall have been given to Lessor.
  - (ii) Be issued by insurance companies which are qualified to do business in the State of California and which have a minimum rating of A and financial size of V in Best's Insurance Report.
  - (iii) Be reasonably satisfactory to District in all other reasonable respects.

(f) The policies required pursuant to this Agreement or a certificate of the policies, together with evidence of payment of premiums, shall be provided to District prior to the commencement of any term of this Agreement.

(g) The commercial general liability insurance to be maintained by Lytle pursuant to this section above shall:

(i) Name District as an additional insured.

(ii) Apply severally to Lytle and District.

(iii) Cover Lytle and District as insured in the same manner as if separate policies had been issued to each of them.

(iv) Contain no provisions affecting the rights which any of them would have as claimants if not so named as insured.

(v) Be primary insurance with any other valid and collectible insurance available to the aforesaid additional insureds constituting excess insurance, and each policy shall be endorsed substantially as follows:

“The insurance afforded by this policy to additional insureds shall be primary insurance and other valid and collectible insurance available to any additional insureds shall be excess insurance and, under no circumstances, shall be considered contributory.”

(vi) Each Party waives any right of recovery for loss or damage against the other Party, including the officers, directors, partners, employees, agents and representatives of any Party, to the extent that such loss or damage is insured against under any valid and collectible insurance (except workers' compensation insurance) in force at the time of such loss or damage. All policies of insurance obtained by the Parties must include a clause or endorsement waiving the insurer's rights of subrogation against any other Party.

**1.15 Indemnity.** Except for the District's negligence or willful misconduct, Lytle shall assume the defense of, indemnify and hold harmless Indemnified Parties and each and every one of them, from and against all Costs of every type and description to which they may be subjected or put, by reason of, or resulting from, the design, engineering and construction of the Lytle-Build Water Facilities. No provision of this Agreement shall in any way limit the extent of the responsibility of Lytle for payment of damages resulting from its operations or the operations of any of its contractors, engineers, agents or employees.

Lytle further covenants and agrees to pay, or to reimburse the Indemnified Parties for any and all reasonable costs, attorney's fees, liabilities or expenses in connection with investigating, defending against or otherwise in connection with any losses, claims, damages, liabilities, expenses or actions, arising out of or in connection with Lytle's obligations pursuant to this Agreement, except liability arising through the negligence or willful misconduct of the Indemnified Parties. District shall have the right, at Lytle's expense, to commence, to appear in, or to defend any action or proceeding, arising out of and in connection with the Agreement, and in connection therewith, may pay all necessary expenses if Lytle fails upon reasonable notice to so commence, appear in or defend any action or proceeding with counsel reasonably acceptable to the District. Lytle shall be furnished with copies of all bills relating to the foregoing upon request.

## ARTICLE 2

### ACQUISITION OF WATER FACILITIES AND RELATED REAL PROPERTY AND EASEMENTS

**2.1 Water Filtration Plant** The location of the Water Filtration Plant has not yet been finally determined and remains subject to engineering review and environmental compliance as further provided in Section 1.2 above. Lytle and the District shall cooperate, at no cost to District, to acquire fee title for the construction and use of the Water Filtration Plant Facilities upon a parcel of real property of a size and dimension which is acceptable to the District in its reasonable discretion upon which the Water Filtration Plant and WF Plant Reservoir can be constructed (the "**Water Filtration Plant Parcel**"). Currently, the District anticipates that four (4) to five (5) acres shall be necessary for the Water Filtration Plant Parcel. The actual size of the Water Filtration Plant Parcel will be based upon the design of the Water Filtration Plant Facilities, as approved by the District. Such approved design may require that the Water Filtration Plant Parcel be more or less than the estimated acreage. The Water Filtration Plant Parcel may be (i) on the San Bernardino County sheriff's property adjacent to the Lytle Creek North in the vicinity of the location shown on Exhibit "C", or (ii) if such location cannot be acquired or entitled on a commercially reasonable basis, or is otherwise not feasible, within the Sycamore Flats Property. Nothing contained herein shall require District to use its powers of eminent domain to acquire fee title or an easement on behalf of Lytle. If the Water Filtration Plant Parcel is located within the Sycamore Flats Property, Lytle agrees to convey such property to the District at no cost or expense to District. The final location and parcel configuration for the Water Filtration Plant Parcel shall be subject to the prior written approval of District, which shall not be unreasonably withheld. Notwithstanding the foregoing, the exact location of the Water Filtration Plant Parcel and the size and dimensions thereof, shall be subject to the prior written approval of District. Lytle shall ensure that all monetary liens recorded against the Water Filtration Plant Parcel are reconveyed prior to the acceptance by District of the Water Filtration Plant Facilities. Notwithstanding anything contained in this Agreement to the contrary, District shall have no obligation to provide the Phase II Hook-Up Rights until the Water Filtration Plant

and W F Plant Reservoir have been completed and accepted by the District pursuant to the terms hereof.

**2.2 Conveyances of Real Property.** Upon completion and acceptance of the Lytle-Build Water Facilities by the District, Lytle shall acquire and convey or cause to be acquired and conveyed to District, at no cost to District, (i) required easements across private property, substantially in the form attached hereto as Exhibit "F", or public access or rights-of-way which may be necessary for the appropriate operation and maintenance of the Water Facilities, (ii) fee title for the construction and use of the Water Filtration Plant and WF Plant Reservoir and (iii) an access easement providing ingress and egress to and from the Water Filtration Plant Parcel. Nothing herein shall require Lytle to obtain an easement over Property owned by District. The easements shall be in a width and at such locations as shall be reasonably acceptable to District. Lytle shall ensure that all monetary encumbrances are: (a) subordinated to the easements; and (b) reconveyed as to any fee ownership. Notwithstanding anything contained in this Agreement to the contrary, District shall have no obligation to provide (a) the Lytle Phase I Hook-Up Rights until the easements and/or public access or rights-of-way associated with the Lytle-Build Water Facilities listed in Phase I of the Phasing Schedule are granted to District and those conditions set forth in Section 3.2.1. have been satisfied and (b) the Lytle Phase II Hook-Up Rights until the easements and/or public access or rights-of-way associated with the Lytle Water Facilities listed on Phases I, II and III of the Phasing Schedule are granted to District and those conditions set forth in Section 3.2.1. have been satisfied.

If requested by Lytle after Lytle has used commercially reasonable efforts to obtain permits from public agencies to install and maintain pipelines within public rights-of-way, District shall cooperate in good faith with Lytle to apply for such permits in District's name; provided that such application shall not make the construction of any of the facilities herein a public works project (except the construction of Reservoir 7-5) and Lytle hereby indemnifies and holds District harmless from all cost and expense (including reasonable attorneys' fees and costs) having to do with the same.

Lytle shall use commercially reasonable efforts to obtain the fee property and easements required to be acquired by Lytle hereunder. In the event Lytle cannot acquire fee property and/or easements (collectively, "Required Property"), Lytle can request, in writing, that District exercise the power of eminent domain to acquire the Required Property on behalf of Lytle. Such request shall be accompanied by a description of the efforts undertaken by Lytle to acquire the Required Property. Lytle hereby acknowledges that an obligation on the part of the District to acquire the Required Property by eminent domain on behalf of Lytle may be an abuse of discretion. However, District covenants to consider the use of its eminent domain power to acquire the Required Property. Such determination shall include, without limitation, the following considerations: (i) whether the Required Property is necessary for a public project; (ii) whether such project is in turn necessary for a public purpose; and (iii) whether the taking of the Required Property is compatible with the greatest public good and least private injury. In the event District makes the determination that the taking of the Required Property meets the foregoing criteria, the

District shall hold such public hearing and at such time determine if it can make the findings required by law. If, after such initial hearing, the District determines that the requested taking meets the required criteria, the District will determine if it should adopt a resolution of necessity before proceeding to condemn the Required Property. Lytle shall pay, indemnify and hold District and its officers, directors, employees, agents and representatives harmless from all liabilities, demands, obligations, acts, agreements, costs, expenses (including but not limited to attorneys' and consultants' fees and costs), damages, claims, actions and causes of action of whatsoever kind or nature arising out of the consideration to condemn, the condemnation of and condemnation awards for the Required Property. The District does not warrant the success of any eminent domain action nor does the lack of success or decision not to adopt a resolution of necessity obviate the requirement that Lytle obtain the fee property or easement to be acquired by Lytle hereunder. As a condition precedent to considering the use of its eminent domain power, Lytle shall deposit such sums with the District as the District considers necessary for the costs of consideration and litigation of such eminent domain proceeding and just compensation for the Required Property to be condemned. For purposes of such deposit, the provisions of Section 1.4 shall apply including, without limitation, the requirement by Lytle to remit further funds on written demand by District.

**2.3 Ownership of Permanent Improvements.** After the Acceptance of all Lytle-Build Water Facilities, all permits, plans, and operating manuals related thereto, shall become the sole property of the District, subject to Lytle's performance of any warranty work required hereunder. On the acceptance of the Lytle-Build Water Facilities by the District, Lytle shall deliver to District, at no cost to the District, all surveys and as-built drawings associated with the construction of the Lytle-Build Water Facilities.

### ARTICLE 3

#### DISTRICT WATER SERVICE AND CAPACITY COMMITMENTS

**3.1 Reservations of Capacity and Water Service Commitment.** Upon the satisfaction of all of the conditions thereafter set forth in the Agreement, District hereby agrees to provide, subject to the terms and condition set forth herein, fire flow and domestic water service for (i) no more than Two Thousand Two Hundred Seventeen (2,217) equivalent dwelling units ("EDUs") (the "**Lytle Phase I Hook-Up Rights**") within that portion of the Lytle Property described on Exhibit "G" attached hereto and by this reference incorporated herein (the "**Lytle Phase I Property**") and (ii) no more than Two Thousand Eighty-Three (2,083) EDUs (the "**Lytle Phase II Hook-up Rights**") within the remainder of the Lytle Creek North and Sycamore Flats Property (the "**Lytle Phase II Property**"), and to provide water service to such properties subject to the terms and conditions set forth herein (the District's "**Service Commitment**"). The Lytle Phase I Hook-Up Rights and the Lytle Phase II Hook-Up Rights are sometimes collectively referred to herein as the "**Hook-Up Rights**." The Hook-Up Rights may be used and applied on an EDU basis, regardless of District's current or future Facilities Charges (as that term is defined in the District's regulations). Subject to federal, state and local laws, rules, regulations,



ordinances and rulings with respect to the provision of fire flow, the fire flow capacity for the Lytle Phase I Property and Lytle Phase II Property shall be designed for (a) no less 1,500 gpm for a two-hour duration for single family residences, (b) no less than 1,500 gpm for a two-hour duration for multi-family residences and (c) no less than 3,500 gpm for three hour duration for commercial properties.

### 3.2 Service Commitment/Conditions Precedent to Service Commitment.

**3.2.1 Lytle Phase I Hook-Up Rights.** Subject to satisfaction of the terms and conditions of this Agreement with respect to the Phase I Water Facilities, the Lytle Phase I Hook-Up Rights shall be available and District's Service Commitment with respect to such EDUs shall become effective upon Lytle's completion (or upon satisfaction of the Phase condition, if completion is not required) of the Phase I Water Facilities' requirements described on Exhibit "D". Notwithstanding anything contained herein, including Exhibit "D" attached hereto, District shall not be required to provide service to the first One Thousand Eight Hundred (1800) units on the Lytle Phase I Property nor shall the Lytle Phase I Hook-Up Rights with respect to the first One Thousand Eight Hundred (1800) units be available until:

(a) District has completed the current expansion to the Oliver P. Roemer Treatment Plant; and

(b) Either, (i) District has completed the hook-up with San Bernardino Valley Municipal Water District (approximately three hundred feet (300') northeast of Linden and Riverside Avenue) and the receipt of an additional entitlement of approximately **Twenty-One Thousand One Hundred Sixty (21,160 )** acre feet per year of Table A water from the State Water Resources Development System; or (ii) Reservoir 7-3 shall be fully completed and operational and accepted by the District.

The District agrees to use commercially reasonable efforts to satisfy the requirements in subparagraph (a) above by August 1, 2005, subject to any Force Majeure delays.

Lytle shall be entitled to use the remaining Lytle Phase I Hook-Up Rights upon the completion and availability for use of Reservoir 7-5. District agrees to use commercially reasonable efforts to substantially complete construction of Reservoir 7-5 within two hundred forty (240) days after issuance of permits for such facility, subject to Force Majeure delays. District retains the right to replace Reservoir 7-4 instead of Reservoir 7-5 for the remaining Lytle Phase I Hook-Up Rights.

**3.2.2 Lytle Phase II Hook-Up Rights.** Subject to satisfaction of the terms and conditions of this Agreement the Lytle Phase II Hook-Up Rights shall be available and District's Service Commitment with respect to such EDUs shall become effective upon completion of the Phase II and Phase III Water Facilities described on Exhibit "D"

**3.3 Application of Hook-Up Rights.** Subject to Section 3.2 above, (i) Lytle may use and apply the Lytle Phase I Hook-Up Rights and the Lytle Phase II Hook-Up Rights to acquire domestic water service from District for the applicable number of EDUs within the Lytle Property. No other facility charges (as defined in the District's rules and regulations) shall be charged with respect to the Service Commitment up to the maximum EDUs set forth in Section 3.1 above (except for potential "Additional Infrastructure" costs as provided in Section 3.4 below).

**3.4 Assignment of Hook-Up Rights.** Lytle shall have the right to assign some or all of their respective Hook-Up Rights to successors in interest of the Lytle Property. In the event

- (a) Lytle has not used up Two Thousand Two Hundred Seventeen (2,217) EDUs after completion of development of the Lytle Phase I Property, and/or
- (b) Lytle has not used up Two Thousand Eighty-Three (2,083) EDUs after completion of the development of the Lytle Phase II Property, and/or
- (c) It is apparent to the District in its reasonable discretion that a portion of such EDUs will not be used for the respective portion of the Lytle Property based on the final entitlements for such property.

Lytle may assign the excess Hook-Up Rights (i.e., amounts allowed, minus amounts actually used) to third parties within the District's Pressure Zone 7 or Zone 8 Service Areas; provided such assignment takes place prior to the date seven (7) years after the Effective Date. Any such assignment shall be effective upon the execution by Lytle and the applicable assignee of an Assignment and Assumption of Hook-Up Rights in the form attached hereto as Exhibit "T" and the written consent of the District thereto, which will not be unreasonably withheld. Notwithstanding the foregoing, to the extent that Hook-Up Rights are assigned and used for properties other than the Lytle Property and additional pipelines, pump stations or related infrastructure is necessary (in addition to the Water Facilities and existing District pipelines) for the District to provide the applicable Water Service (the "Additional Infrastructure"), Lytle or its assignee, if applicable, shall be responsible, at its sole cost and expense, for funding and/or designing, installing and constructing such Additional Infrastructure in accordance with District's standards and requirements, and the installation and construction of such Additional Infrastructure shall be a condition precedent to the District's obligation to provide water service hereunder.

#### ARTICLE 4 ANNEXATION/OUT OF SERVICE AREA AGREEMENT

**4.1 LAFCO Petition.** On or about September 8, 2004 District filed an application with the local agency formation commission of the County of San Bernardino

("LAFCO"), at no cost to District, for the annexation of the Lytle Property and/or a portion thereof into the District's service area. The resolution adopted by LAFCO approving the annexation of such property shall be in such form and content and shall be reasonably satisfactory to the District and shall provide, in part, that the District shall be designated as the conducting authority and is authorized to proceed without notice hearing or election to complete the annexation of the property in the District's Service Area. Any expenses incurred by District with respect to the annexation, shall be reimbursed by Lytle in accordance with Section 1.4.

**4.2 Out-of-Service Arrangement.** On or about October 14, 2004, District filed an application with the LAFCO seeking approval of an Out-of-Service Area Agreement for the portions of the Lytle Property which are not within the current District service area. On or about October 17, 2004, LAFCO approved the Out-of-Service Area Agreement.

## ARTICLE 5 COMMUNITY FACILITY DISTRICT FUNDING

**5.1 Joint Community Facilities Agreement.** The Water Facilities may be financed and/or constructed in accordance with the terms of a Joint Community Facilities Agreement ("JCFA") which may be negotiated and entered into between the County and the District in accordance with the Community Facilities District Act of 1982, as amended. Notwithstanding any terms of the JCFA that may be construed to the contrary, nothing in the JCFA shall relieve any Party hereto of their respective obligations as set forth in this Agreement.

## ARTICLE 6 MISCELLANEOUS

**6.1 Notices.** All notices or other communications between the District and Lytle required or permitted hereunder shall be in writing and personally delivered or sent by certified mail, return receipt requested and prepaid, or sent by reputable overnight courier (such as Federal Express, UPS or DHL), or transmitted by electronic facsimile transmission (with electronic confirmation of receipt) to the following addresses:

If to the District:

West Valley Water District  
855 W Baseline  
P O Box 920  
Rialto CA 92377-0920  
Facsimile: 909-875-7284  
Attention: General Manager

If to Lytle:

Lytle Development Company  
 180 N. Riverview Drive, Suite 260  
 Anaheim Hills, CA 92808  
 Telefacsimile No.: (714) 283-2542  
 Attn: Mr. Ronald W. Pharris

With a copy to:

Paul, Hastings, Janofsky & Walker LLP  
 695 Town Center Drive, 17th Floor  
 Costa Mesa, CA 92626  
 Telefacsimile No.: (714) 979-1921  
 Attn: John F. Simonis, Esq.

A notice shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery, or on the date of receipt, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) prior to 5:00 p.m. or otherwise on the next day, provided receipt of such transmission shall be confirmed by follow-up notice within seventy-two (72) hours by another method authorized above, or two (2) business days following the date the notice is postmarked, if mailed, or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Any Party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

**6.2 Time of the Essence.** Time is of the essence of this Agreement and each and every term and provision hereof.

**6.3 Interpretation; Governing Law.** This Agreement shall be construed as if prepared by all of the Parties. 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. This Agreement shall be construed, interpreted and governed by the laws of the State of California and the laws of the United States of America prevailing in California.

**6.4 Severability.** If any provision of this Agreement, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and application of such provision to other circumstances shall be interpreted so as best to reasonably effect the intent of the Parties hereto.

**6.5 Performance of Acts on Business Days.** Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to business days. In the event that

the final date for payment of any amount or performance of any act hereunder falls on a Saturday, Sunday or holiday, such payment may be made or act performed on the next succeeding business day.

**6.6 Attorney's Fees and Costs.** In the event of any legal action to interpret this Agreement or enforce the rights or remedies of any Party to this Agreement, the prevailing Party in such legal action shall be entitled to recover its costs and expenses (including attorneys' fees) of such action.

**6.7 Waiver of Jury Trial.** The Parties hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or hearing brought by a Party hereto or its successors and assigns on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship of the Parties hereto, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

**6.8 Jurisdiction.** 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 San Bernardino 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.

**6.9 Entire Agreement; Amendments.** This Agreement, together with any other written agreements referred to herein, is intended by the Parties to be the final expression of their agreement with respect to the subject matter hereof, and is intended as the complete and exclusive statement of the terms of the agreement between the Parties. As such, this Agreement supersedes any prior understandings between the Parties, whether oral or written. Any amendments to this Agreement shall be in writing and shall be signed by all Parties hereto.

**6.10 No Waiver.** 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 thereof or the exercise of any other right, power or privilege hereunder.

**6.11 Assignment.** Lytle shall have the right, upon written notice to District, to assign all or a portion of its rights and obligation under this Agreement to a successor merchant-builder or developer who acquires at least three hundred (300) acres of Lytle North Property, provided that such Developer Assignee executes a written agreement whereby it expressly assumes such rights and obligations (a "Developer Assignee") in accordance with the terms and conditions of this Agreement; provided further that such Developer Assignee has a net worth, determined in accordance with Generally Accepted Accounting Principles, of at least Forty Million Dollars (\$40,000,000). Except as provided above or in Section 3.4, Lytle shall have no

right to assign or otherwise transfer this Agreement, either voluntarily or by operation of law, in whole or in part, without the prior written consent of District in each instance, such consent not to be unreasonably withheld. Within ten (10) business days after receipt of a request for assignment, the District shall provide either written consent, or a written statement of objections to the assignment. If the District fails to provide a response within ten (10) business days, such failure shall be deemed to satisfy the consent requirement of this Section. An approved or deemed approval of an assignment shall be evidenced by a written instrument in a form satisfactory to District, executed by the assignor and assignee, under which the assignee shall agree, in writing, for the benefit of District to assure, to perform and to abide by all of the terms, covenants and conditions of this Agreement to be done, kept and performed by assignor from and after the effective date of the assignment. It is acknowledged and agreed that an assignment and assumption meeting the requirements of this Section may bifurcate (i) the covenants and responsibility of this Agreement related to environmental compliance and construction of the Water Filtration Plant Facilities, from (ii) the covenants and responsibilities of Lytle under this Agreement related to the other Lytle-Build Water Facilities, so that separate parties or entities are responsible for all funding, construction related covenants and responsibilities related to the respective Water Facilities, including bonding, indemnities and insurance. Regardless of District's consent, no assignment shall release an assignor of assignor's obligations hereunder; provided however if Lytle assigns all or a portion of its rights and obligations hereunder, Lytle shall be released from such obligation at such time as Lytle (or its successors or assigns) have tendered to District all of the bonds required pursuant to Section 1.9(g).

**6.12 Binding Effect.** Subject to Section 6.11 above, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, representatives, successors and permitted assigns.

**6.13 Headings; Cross-References.** The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of this Agreement.

**6.14 Exhibits.** The exhibits attached hereto are incorporated into this Agreement by this reference as if set forth in full in the body of this Agreement.

In the event of a conflict between any term or condition in an Exhibit and this Agreement, the Agreement shall control.

**6.15 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

**6.16 Memorandum/Subordination.** Upon the execution of this Agreement, the Parties shall execute and cause to be acknowledged, and the District shall cause to be recorded in the Office of the Recorder of the County of San Bernardino, California, a Memorandum of Agreement in the form of Exhibit "J" attached hereto ("**Memorandum**"). Within thirty (30)

days after the execution of this Agreement, Lytle shall cause all monetary liens to which the Lytle Property are subject at the time the Memorandum is recorded, to be subordinated to the lien of the Memorandum of Agreement. In the event Lytle fail to obtain the subordinations within the thirty (30) day period, this Agreement shall terminate and all Parties shall be relieved from any liabilities and obligations under this Agreement except the indemnity obligations set forth herein shall survive the termination of this Agreement. District and Lytle agree to cooperate to execute a quitclaim deed or other documentation reasonably requested by a title company to evidence the termination and removal from record of such Memorandum (a) with respect to the Lytle Phase I Property upon the satisfactory completion and District acceptance of the Phase I Water Facilities requirement shown on Exhibit "D" and (b) with respect to the remainder of the Phases, upon the satisfactory completion and District acceptance of Phase II and Phase III Water Facilities shown on Exhibit "D."

**6.17 Termination .** This Agreement shall not be extinguished or altered in any way, by any Party without the prior written and recorded consent of District.

**6.18 Remedies.** In addition to the rights, powers and remedies given in this Agreement, the District may, in its sole and absolute discretion, at any time and from time to time, exercise any and all rights and powers and pursue any and all remedies now or hereafter provided by law or equity. The failure to exercise, in the case of one or more events of default, any right or remedy given in this Agreement or by law or equity, will not preclude the District from exercising any right or remedy given in this Agreement or by law or equity in the case of one or more subsequent events of default. The delay of District in exercising any right or remedy given in this Agreement with respect to any event of default, will not preclude District from subsequently exercising such right or remedy with respect to such event of default.

**6.19 Authorization.** 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.

**6.20 Records.** Lytle shall maintain and make available for inspection by District during regular office hours, accurate records pertaining to the construction and installation of the Water Facilities.

**6.21. Estoppel Certificates.** District and Lytle agree that within twenty (20) days after receipt of a written request from the other party, it shall execute, acknowledge and deliver an estoppel certificate certifying to the actual knowledge of the party delivering the certificate, without duty of investigation; (a) that this Agreement has not been modified and is in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified, and stating the modifications); (b) whether or not, to the actual knowledge of the party executing such certificate, without duty of investigation, the requesting party is in default under this Agreement and whether any notice has been received by or delivered to said party of any event of default which has not been cured, and if any such event of default exists or

has been noticed, briefly describing such event of default; and (c) verifying any Water Facilities that have been completed and accepted by District in accordance with the terms of this Agreement. The addressee of such certificate (which may be the requesting party, a lender of the requesting party or a proposed assignee or successor of the requesting party) shall be entitled to rely on such certificate. The party requesting such certificate shall reimburse the responding party for the responding party's reasonable legal fees incurred responding to the request for an estoppel certificate, not to exceed One Thousand Dollars (\$1,000.00) per request.

*[SIGNATURES APPEAR ON FOLLOWING PAGE]*



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

"DISTRICT"

"LYTLE"

WEST VALLEY WATER DISTRICT, a public agency of the State of California

LYTLE DEVELOPMENT COMPANY, a California corporation

By: [Signature]

By: Ronald W. Pharris

Name: ANTHONY W. ARAIZA

Name: Ronald W. Pharris

Title: CON. Mem.

Title: Chairman

PHARRIS SYCAMORE FLATS, LLC, a California limited liability company

By: Ronald W. Pharris

Name: Ronald W. Pharris

Title: Manager

## EXHIBIT LIST

Exhibit "A"	Legal Description of Lytle Creek North
Exhibit "B"	Legal Description of Sycamore Flats
Exhibit "C"	Description and Depiction of Water Facilities
Exhibit "D"	Phasing Schedule
Exhibit "E"	Cost Sharing Schedule
Exhibit "F"	Form of Easement
Exhibit "G"	Lytle Phase I Property
Exhibit "H"	Estimate of District Costs and Expenses
Exhibit "I"	Form Assignment and Assumption
Exhibit "J"	Form of Memorandum of Agreement

**EXHIBIT "A" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
LEGAL DESCRIPTION OF LYTLE CREEK NORTH**

**EXHIBIT "A"****LEGAL DESCRIPTION OF LYTLE CREEK NORTH**

All of the lots of that certain real property located in an unincorporated area of the County of San Bernardino, State of California, described in Tentative Tract Map No 15900 effective December 18, 2001.

The legal description set forth in this Exhibit shall be updated upon the recording of the final Tract Map No. 15900.

**EXHIBIT "B" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT**

**LEGAL DESCRIPTION OF SYCAMORE FLATS**

EXHIBIT "B"

Real property in the City of , County of San Bernardino, State of California, described as follows:

## PARCEL NO. 1:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTH-EAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 18' 05" WEST, 1975.47 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 9 DEG. 19' 54" EAST, 657.10 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 10' 23" WEST, 658.74 FEET TO THE SOUTHWEST CORNER OF GOVERNMENT LOT 2 OF SAID SECTION 5; THENCE NORTH 0 DEG. 18' 52" EAST, 622.85 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID GOVERNMENT LOT 2; THENCE NORTH 88 DEG. 03' 05" EAST, 1317.96 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF SAID GOVERNMENT LOT 2; THENCE SOUTH 0 DEG. 20' 55" WEST, 625.66 FEET TO THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH 88 DEG. 10' 23" EAST, 1317.48 FEET TO THE NORTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 89 DEG. 30' 30" EAST ALONG THE NORTH LINE OF GOVERNMENT LOT 3 OF SAID SECTION 4, A DISTANCE OF 541.26 FEET; THENCE SOUTH 0 DEG. 49' 35" WEST, 838.17 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTH-EASTERLY AND HAVING A RADIUS OF 694.00 FEET FROM AN INITIAL TANGENT BEARING SOUTH 70 DEG. 18' 42" WEST THROUGH A CENTRAL ANGLE OF 23 DEG. 13' 40", A DISTANCE OF 281.35 FEET TO A POINT THAT BEARS SOUTH 42 DEG. 54' 58" EAST, A DISTANCE OF 432.97 FEET FROM THE POINT OF BEGINNING; THENCE NORTH 42 DEG. 54' 58" WEST, 432.97 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

## PARCEL NO. 2:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE NORTH 0 DEG. 20' 55" EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 5, A DISTANCE OF 493.63 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 0 DEG. 20' 55" EAST, 1482.69 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 88 DEG. 18' 05" EAST, 1316.198 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHEAST

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1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 42 DEG. 54' 58" EAST, 432.97 FEET; THENCE SOUTH-WESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 694.00 FEET FROM AN INITIAL TANGENT BEARING SOUTH 47 DEG. 05' 02" WEST THROUGH A CENTRAL ANGLE OF 26 DEG. 35' 44", A DISTANCE OF 322.14 FEET; THENCE SOUTH 20 DEG. 29' 18" WEST, 970.42 FEET TO A POINT THAT BEARS NORTH 88 DEG. 25' 47" EAST, A DISTANCE OF 1103.46 FEET FROM THE TRUE POINT OF BEGINNING; THENCE SOUTH 88 DEG. 25' 47" WEST, 1103.46 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055.

PARCEL NO. 3:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY; AND A PORTION OF THE RANCHO MUSCUIABE, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE NORTH 0 DEG. 20' 55" EAST, ALONG THE WEST LINE OF SAID GOVERNMENT LOT 5, A DISTANCE OF 493.63 FEET; THENCE NORTH 88 DEG. 25' 47" EAST, 1103.46 FEET; THENCE NORTH 20 DEG. 29' 18" EAST, 970.42 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE NORTHEASTERLY ALONG SAID CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 694.00 FEET THROUGH A CENTRAL ANGLE OF 49 DEG. 49' 24", A DISTANCE OF 603.49 FEET; THENCE SOUTH 0 DEG. 49' 35" WEST, 878.61 FEET TO THE WESTERLY LINE OF STATE HIGHWAY NO. 31; THENCE SOUTH 21 DEG. 32' 45" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 80.08 FEET; THENCE SOUTH 25 DEG. 48' 50" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 993.15 FEET; THENCE SOUTH 22 DEG. 02' 59" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 645.85 FEET; THENCE SOUTH 33 DEG. 59' 10" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 805.86 FEET TO A POINT THAT BEARS SOUTH 87 DEG. 42' 11" EAST, A DISTANCE OF 42.86 FEET FROM RANCHO CORNER "M-4", AS SHOWN ON SAID MAP OF RANCHO MUSCUIABE; THENCE NORTH 87 DEG. 42' 11" WEST, 42.86 FEET TO SAID RANCHO CORNER "M-4"; THENCE NORTH 8 DEG. 55' 47" WEST, 1209.25 FEET TO RANCHO CORNER "M-5", AS SHOWN ON SAID MAP OF RANCHO MUSCUIABE; THENCE NORTH 52 DEG. 07' 45" EAST ALONG THE NORTHERLY LINE OF SAID RANCHO MUSCUIABE, A DISTANCE OF 146.16 FEET TO THE SOUTH LINE OF SAID GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 39' 44" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 581.09 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

PARCEL NO. 4:

ALL THAT PORTION OF GOVERNMENT LOTS 3 AND 5 IN SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN

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BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, LYING  
EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH  
89 DEG. 30' 30" EAST, 541.26 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE  
DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 0 DEG. 49' 35" WEST TO  
A POINT ON THE WESTERLY LINE OF STATE HIGHWAY NO. 31, AS CONVEYED TO THE STATE  
OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL  
RECORDS, SAID POINT BEING THE TERMINUS OF SAID LINE.

EXCEPTING THEREFROM THAT PORTION LYING EASTERLY OF THE WESTERLY LINE OF THAT  
PARCEL CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962,  
IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN  
BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF  
CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055,  
RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

APN:

*First American Title*



## PARCEL NO. 5

ALL THAT PORTION OF THE TRACT OF LAND OR RANCHO KNOWN AND DESIGNATED AS THE MUSCUPIABE RANCHO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 4, IN THE WEST BOUNDARY LINE OF SAID RANCHO; THENCE NORTH 8 DEG. WEST, 18.00 CHAINS (1188.00 FEET) TO STATION 5; THENCE NORTH 54 DEG. EAST, 44 CHAINS TO STATION 6; THENCE SOUTH 78 DEG. EAST, 14 CHAINS TO STATION 7; THENCE NORTH 39 DEG. EAST, 4 CHAINS TO STATION 8; THENCE NORTH 1 DEG. 30' EAST, 26 CHAINS TO STATION 9; THENCE LEAVING SAID LINE AND FOLLOWING THE COURSES AND DISTANCES AS DELINEATED UPON A MAP SHOWING SUBDIVISION OF LANDS BELONGING TO THE SEMI-TROPIC LAND AND WATER COMPANY, AS PER PLAT RECORDED IN BOOK 6 OF MAPS, PAGE 12, RECORDS OF SAID COUNTY, SOUTH 15 DEG. 55' EAST, 20.52 CHAINS TO A STAKE MARKED NO. VIII; THENCE SOUTH 11 DEG. 35' EAST, 6.72 CHAINS TO A STAKE MARKED NO. VII; THENCE SOUTH 19 DEG. 45' EAST, 41.77 CHAINS TO A STAKE MARKED NO. VI; THENCE SOUTH 10 DEG. 37' WEST, 137 FEET TO A POINT; THENCE NORTH 83 DEG. 47' WEST, 4675.5 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION DESCRIBED AS:

BEGINNING AT STATION 6, RANCHO MUSCUPIABE; THENCE SOUTH 78 DEG. 30' EAST ALONG THE NORTH LINE OF SAND RANCHO, 359 FEET; THENCE SOUTH 11 DEG. 30' WEST, 61 FEET; THENCE NORTH 68 DEG. 09' WEST, 363.89 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THOSE PORTIONS CONVEYED TO THE STATE OF CALIFORNIA FOR HIGHWAY BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS; AND BY DEED RECORDED AUGUST 30, 1974, IN BOOK 8506, PAGE 177, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY PORTION LYING WESTERLY OF THE EASTERLY LINE OF THE PROPERTY CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF LOT 37, MUSCUPIABE RANCHO, AS PER PLAT RECORDED IN BOOK 1, PAGE 24, OFFICIAL RECORDS; AND IN BOOK 7, PAGE 23, OFFICIAL RECORDS OF SAID COUNTY, SAID PORTION LYING WITHIN SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER "M-8" OF THE MUSCUPIABE RANCHO, AS PER PLAT RECORDED IN BOOK 1 OF MAPS, PAGE 24, AND IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, SAID CORNER BEING ALSO DELINEATED ON THAT CERTAIN MAP RECORDED APRIL 18, 1966, IN BOOK 25, PAGE 17, RECORDS OF SURVEY, IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE CONTINUING ALONG SAID RANCHO LINE NORTH 01 DEG. 35' 39" EAST (RECORD NORTH 1 DEG. 13' 56" EAST), A DISTANCE OF 1,733.41 FEET (RECORD 1,741.53 FEET) TO CORNER "M-9" OF SAID RANCHO; THENCE SOUTH 09 DEG. 50' 37" EAST (RECORD NORTH 10 DEG. 06' 24" WEST), A DISTANCE OF 1,814.28 FEET TO SEMI-TROPIC CORNER VIII

AS DELINEATED ON SAID RECORD OF SURVEY AS "SEMI-TROPIC COR. VIII"; THENCE SOUTH 12 DEG. 20' 55" EAST (RECORD NORTH 12 DEG. 36' 42" WEST), A DISTANCE OF 185.46 FEET TO A 1-INCH IRON PIPE, SAID PIPE BEING DELINEATED ON THE AFORESAID RECORD OF SURVEY AS "FD. 1" I.P. - SEMI-TROPIC COR. VII"; THENCE NORTH 89 DEG. 34' 37" WEST, A DISTANCE OF 401.54 FEET; THENCE NORTH 01 DEG. 35' 39" EAST, A DISTANCE OF 233.00 FEET, MORE OR LESS, TO THE AFORESAID CORNER "M-8" OF SAID RANCHO AND THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM ALL THAT PORTION OF THE TRACT OF LAND OR RANCHO KNOWN AND DESIGNATED AS THE MUSCUPIABE RANCHO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY; AND ALL THAT PORTION OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THE PROPERTY CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS, SAID POINT IS SOUTH 1 DEG. 13' 56" WEST, 2085.0 FEET AND NORTH 43 DEG. 00' 00" WEST, 2,172.00 FEET, PLUS OR MINUS FROM STATION 8 IN THE WEST BOUNDARY LINE OF MUSCUPIABE RANCHO, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA; THENCE SOUTH 43 DEG. 00' 00" EAST, A DISTANCE OF 2,172.00 FEET, PLUS OR MINUS; THENCE NORTH 1 DEG. 13' 56" EAST, A DISTANCE OF 2,085.00 FEET TO SAID STATION 8; THENCE SOUTH 28 DEG. 33' 13" WEST, A DISTANCE OF 263.55 FEET TO STATION 7; THENCE NORTH 78 DEG. 58' 12" WEST, A DISTANCE OF 564.95 FEET; THENCE SOUTH 11 DEG. 01' 48" WEST, A DISTANCE OF 108.47 FEET TO THE SOUTHERLY LINE OF DEVORE CUT-OFF ROAD; THENCE NORTH 62 DEG. 59' 57" WEST TO SAID EASTERLY LINE OF PROPERTY CONVEYED TO THE STATE OF CALIFORNIA; THENCE WESTERLY AND SOUTHERLY ALONG SAID STATE PROPERTY TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

**EXHIBIT "C" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
DESCRIPTION AND DEPICTION OF WATER FACILITIES**

## Description and Depiction of Water Facilities

Project Number	Water System Facilities	Units
	Zone 7	
7-1	1. Zone 7 Reservoir capacity	4.5 mg
7-2	2. Upgrade Pump Station 7-1	2.0 mgd
7-3	3. 24" Pipeline, PS 7-1 to Glen Helen Parkway (10.5 mgd capacity)	7,000LF
7-4	4. 24" Pipeline from Lytle Creek Road to West Entry Drive	2,600 LF
7-5	5. Well W-55 on Institution Road	1 each
7-6	6. 12" Pipeline from well to Reservoir at Filtration Facilities	13,300 LF
7-7	7. 20" Pipeline from Glen Helen Turnout to Water Filtration Facilities	10,400 LF
7-8	8. Water Filtration Facility (supplemental supply)	4.0 mgd
7-9	9. Reservoir for water filtration facility and well W-55	2.0 mg
7-10	10. 6-2 Pump Station from PZ-5 reservoir to North Village Zone 7	6.0 mgd
7-11	11. Pavement Replacement	12,100 LF
7-12	12. 20" Pipeline to Reservoir 7-5	4,500 LF
	Zone 8	
8-1	1. Zone 8 Reservoir Capacity	1.06 mg
8-2	2. Booster Station	1
8-3	3. 16" Pipeline	6,700 LF
8-4	4. Pavement	5,100 LF

**EXHIBIT "D" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
  
PHASING SCHEDULE**

EXHIBIT "D"

**WATER IMPROVEMENTS TO SERVE  
LYTLE CREEK NORTH AND SYCAMORE FLATS  
CONSTRUCTION PHASING**

**PHASE I (Underway)**

1. Complete design of 7-3 Reservoir along with finalizing Section 7 Consultation with Fish & Wildlife Service and Army Corp of Engineers. (Project #7-1) (Design by Engineering Resources) (Section 7 by W.V.W.D. & Lytle Dev.)
2. Upgrade 7-1 Pump Station. (Project #7-2) **COMPLETED** (Upgrade by W.V.W.D. funding participation by Lytle Dev.)
3. Start Design of 6-2 Pump Station near Linden Avenue at Riverside Avenue. (Design by Engineering Resources)
4. Complete design and construction of the Zone 7-24" Waterline and the Zone 8 16" Waterline in Glen Helen Parkway from Lytle Creek Road to Sycamore Creek Drive. (Project #7-4 and part of 8-3) (Design by Engineering Resources) (Construction by Lytle Dev.)
5. Complete design of Zone 7-24" Waterline from Zone 7-1 Pump Station at Live Oak and Riverside Avenue along Riverside Avenue to Sierra Avenue along Sierra Avenue to Lytle Creek Road, along Lytle Creek Road to Glen Helen Parkway. (Project #7-3) (Design by Engineering Resources)
6. Construct Zone 7-24" Waterline from Glen Helen Parkway southerly in Lytle Creek Road to Sierra Avenue, and along Sierra Avenue to the I-15 Freeway. (Project #7-3) (Design by Engineering Resources) (Construction by Lytle Dev.)
7. Lytle Dev. to deposit remaining funds for Engineering Design.

**Phase 1A (Lytle Build) Underway**

1. Initiate CEQA for all the following: 7-5 Reservoir on County Park Property (or substitute site), 4.0 MGD Water Treatment Plant on County Property at the Sheriff's Station, Zone 8 Reservoir off Lytle Creek Road to the West of Zone 7-3 Reservoir, Well No. 55 located in Cajon Creek just South of Institutional Road on County Property, the 12" Waterline from Well No. 55 to the 4.0 MGD Water Treatment Plant, and the 20" Raw Waterline from the State Project Water Turnout near Well No. 55 to the 4.0 MGD Water Treatment Plant, and related easements as required. (Projects #7-7, 7-8, and 7-9) (CEQA Process by Lytle Dev.)

2. Start Design of the following Facilities: 4.0 MGD Water Treatment Plant **including pump station and reservoir** on the County Property at the Sheriff's Station, the 20" Raw Waterline from the State Project Water Turnout at Cajon Creek to the 4.0 MGD Water Treatment Plant, the 12" Waterline from Well No. 55 to the 4.0 MGD Water Treatment Plant, and Well No. 55. (Projects #7-6, 7-7, 7-8, and 7-9) (Design by Lytle Dev. And W.V.W.D.) ( 50% Design Report to be Completed by August 1, 2005)

## PHASE II

1. Start Construction of Zone 7-3, 4.0 MG Reservoir. (Project #7-1) (90 days after Army Corp of Engineers Permit) (Construction by Lytle Dev.) (Complete Construction within 240 Days)
2. Start Construction of Zone 7-24" Waterline from Zone 7-1 Pump Station at Live Oak and Riverside Avenue along Riverside Avenue to Sierra Avenue along Sierra Avenue to Lytle Creek Road, along Lytle Creek Road to Glen Helen Parkway. (Project #7-3) (Design by Engineering Resources) (Construction by Lytle Dev.) (Construction to Start by July 1, 2005)
3. Start Construction of 6-2 Pump Station near Linden Avenue at Riverside Avenue. (Design by Engineering Resources) (Construction by W.V.W.D. funding participation by Lytle Dev.) (Construction to Start by July 1, 2005)
4. Start Design of Zone 8-3 Reservoir. (Project #8-1) (Design by Engineering Resources) (Design Underway)
5. Start Construction of the following: 4.0 MGD Water Treatment Plant, Reservoir for Water Treatment Plant, Pump Station for Water Treatment Plant and Well No. 55, and the State Project Water Turnout (Design by SBVMWD) with the 20" Raw Waterline to the 4.0 MGD Water Treatment Plant. (Projects #7-7, 7-8, and 7-9) (Construction by Lytle Dev.) (Start Construction 90 days after CEQA acceptance) (Complete Construction within 425 Days after W.V.W.D. Acceptance of Final Plans)
6. Lytle Dev. to deposit funds for Construction Engineering and W.V.W.D. Overhead. (July 1, 2005)
7. Lytle Dev. to deposit participation funds for Zone 6 Pump Station 6-2, Zone 7 Pump Station 7-1, and Zone 8 Booster Station 8-2. (July 1, 2005)
8. W.V.W.D. to start Construction of the 7-4 1.5 MG Reservoir (Funded WWWD, not a compliance facility.) (Start Construction 90 Days after Issuance of Army Corp of Engineers Permit. Lytle to contribute its pro rata share upon written request from W.V.W.D when W.V.W.D. is prepared to issue the RFP for the reservoir.)

9. Construct Well No. 55 at Cajon Creek and 12" Waterline from Well No. 55 to the 4.0 MGD Water Treatment Plant located at the Sheriff's Station. (Project #7-5 and 7-6) (Design and Construction by Lytle Dev.) (Construction to Start 90 Days after CEQA Acceptance) (Complete Construction 90 Days after Start)

### PHASE III

1. Start Construction of Zone 8-2 Booster Station. (Project #8-2) (Design and Construction by W.V.W.D. funding participation by Lytle Dev.) (Start Construction January 4, 2006)
2. Start Construction of Zone 8-3 Reservoir and Zone 8-16" Waterline from Zone 8-3 Reservoir to Lytle Creek Road and within Lytle Creek Road to Glen Helen Parkway. (Project #8-1 and part of 8-3) (Design by Engineering Resources) (Construction by Lytle Dev.) (Start Construction January 4, 2006)
3. Design and Construct Zone 7-5 Reservoir on County Park Property, or substitute site, or replace 7-5 Reservoir with 7-4 Reservoir. (Reservoir Design by W.V.W.D.) (Construction by W.V.W.D.)
4. Construct Zone 7-20" Waterline from Clearwater Parkway at Glen Helen Parkway along route to Zone 7-5 Reservoir. (Project # 7-12) (Pipeline Design by Lytle Dev. at the time of Construction of Zone 7-5 Reservoir)



**EXHIBIT "E" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT**

**COST SHARING SCHEDULE**

### Exhibit "E" Cost Sharing Schedule

Project Number	Water System Facilities	Units	Unit Cost	Estimated Facility Cost	Lytle Contribution (Estimate, except where fixed contribution is noted)	District Contribution
	<b>Zone 7</b>					
7-1	Reservoir 7-3	4.0 mg	\$0.32/gal	\$1,280,000	\$1,280,000	
7-1 (A)	Reservoir 7-4	0.5 mg	\$0.32/gal	\$480,000	\$160,000 (pro rata share, i.e., .5 mg. of cost of 1.5 mg reservoir)	\$320,000 (pro rata share, i.e., 1.0 mg. of cost of 1.5 mg reservoir)
7-2	Upgrade Pump Station 7-1	2.0 mgd	\$100,000	\$100,000	\$100,000 (fixed contribution)	
7-3	24" Pipeline, PS 7-1 to Glen Helen Parkway (10.5 mgd capacity)	7,000LF	\$100/LF	\$700,000	\$532,000	\$168,000 (estimate – oversizing 18" vs. 24")
7-4	24" Pipeline from Lytle Creek Road to Sycamore Creek Drive	2,600 LF	\$100/LF	\$260,000	\$260,000	
7-5	Well W-55 on Institution Road	1 each	\$600,000 ea.	\$600,000	\$600,000	
7-6	12" Pipeline from Well W-55 to Reservoir at Filtration Facilities	13,300 LF	\$60/LF	\$798,000	\$798,000	
7-7	20" Pipeline from Glen Helen Turnout to Water Filtration Facilities	10,400 LF	\$100/LF	\$1,040,000	\$801,000	\$239,000 (estimate – oversizing 16" vs. 20")
7-8	Water Filtration Facility (inclusive of Zone 7 booster pump)	4.0 mgd	\$1.45/gal	\$6,001,500	\$4,667,500	\$1,334,000 (fixed contribution)
7-9	Reservoir for water filtration facility and Well W-55	2.0 mg	\$0.04/gal	\$800,000	\$800,000	
7-10	6-2 Pump Station from PZ-5 reservoir to North Village Zone 7	6.0 mgd	13.3 cents/gallon	\$598,500	\$598,500 (fixed contribution)	
7-11	Pavement Replacement	12,100 LF	\$20/LF	\$242,000	\$242,000	
7-12	20" Pipeline from Clearwater Parkway at Glen Helen Parkway to Reservoir 7-5	4,500 LF	\$100/LF	\$450,000	\$450,000	
	<b>Zone 8</b>					

### Exhibit "E" Cost Sharing Schedule

Project Number	Water System Facilities	Units	Unit Cost	Estimated Facility Cost	Lytle Contribution (Estimate, except where fixed contribution is noted)	District Contribution
8-1	Reservoir 8-3	1.06 mg	\$0.45/gal	\$477,000	\$477,000	
8-2	Booster Station 8-2	1	\$100,000	\$100,000	\$100,000 (fixed contribution)	
8-3	16" Pipeline from Reservoir 8-3 to Lytle Creek Road from Lytle Creek Road to Sycamore Creek Drive, and within Lytle Creek Road to Glen Helen Parkway	6,700 LF	\$80/LF	\$536,000	\$536,000	
8-4	Pavement	5,100 LF	\$20/LF	\$102,000	\$102,000	
	Total Construction Zone 7 and 8			\$14,245,000	\$12,504,000	\$1,741,000
	District Participation			(\$1,741,000)		
	Design/Construction Engineering & Inspection			\$1,299,428		
	Subtotal			\$13,803,428		
	District Administration Charge 2%			\$276,069		
	Estimated TOTAL COST			\$14,079,497		

Note: Items noted as "fixed contribution" are a fixed amount. All other contributions are estimates.

**EXHIBIT "F" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT**

**FORM OF EASEMENT**

Recording Requested By and  
when Recorded Return to:

West Valley Water District  
P O Box 920  
Rialto CA 92377-0920

Attn: Leon Long, Assistant General Manager

This Document Must Be Signed in  
the Presence of Notary & Notarized.

No Recording Fee Required Pursuant to Government Code Section 27383

APN: \_\_\_\_\_

### GRANT OF EASEMENT

**FOR VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged \_\_\_\_\_ ("GRANTOR") does hereby grant to **WEST VALLEY WATER DISTRICT**, a county water district, its successors and assigns ("GRANTEE") a perpetual non-exclusive easement and right of way to construct, enlarge, reconstruct, remove and replace, operate, inspect, maintain, repair, improve and relocate for pipelines for the transmission of water, connections, devices and appurtenances in, on, over, under, upon, along, through and across the property hereinafter described, together with reasonable right of access to and from said easement for purposes of exercising the rights granted in said easement.

Said easement shall be in, under, over, and across that certain property situated in the County of San Bernardino, State of California, described as follows:

**(SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF)**

The foregoing easement shall include:

- (a) The temporary use of such adjacent land to the easement as is reasonably necessary for the performance of the work provided for under the term of the easement granted herein; and
- (b) The right to enter upon and pass and repass over and along said strip or strips of land, and to deposit tools, implements and other materials on/and adjacent to the easement by Grantee, its officers, agents and employees, and by persons under contract for the performance of the work provided for under the terms of the easement granted herein, and their employees.

Grantor retains the right to the use of the land described herein except as to any use in derogation of the easement contained herein, and specifically agrees that no trees shall be planted thereon and, no buildings or other structures of any kind will be placed, constructed, or maintained over the real property described herein. Any work by Grantor, or any one working through or under Grantor, affecting the surface or subsurface of the ground subject to this easement shall be performed only after giving written notice by overnight courier or certified mail, postage paid, addressed to Grantee at West Valley Water District, 855 West Baseline Road, (P.O. Box 920) Rialto California 92377 (or at such other address as Grantee may notify Grantor in writing, to be the address of the Grantee) setting forth the proposed changes in detail. Such notice is to be given to the Grantee at least ten (10) business days prior to commencement of such work and is subject to approval by Grantor, which approval shall not be unreasonably withheld. Notwithstanding the foregoing, the surface of the ground with respect to the distance from the ground surface to the top of any pipes, as of the date of this easement, shall not be changed by any party other than Grantee, if it results in:

- (a) "Cutting or removing the soil which leaves less than forty-eight (48) inches of soil over the top of any pipe; and

(b) "Hauling" in of soil or "filling" which will leave more than twelve (12) feet of soil over the top of any pipe.

It is understood that the permanent easements and the rights of way above described shall be acquired subject to the rights of the Grantor, Grantor's successors, heirs and assigns, to use the surface of the real property within the boundaries of such easements and rights of way. It is understood that any use of the surface rights by Grantor, and Grantor's successors, heirs and assigns, shall be deemed a continuing permissive use allowed by Grantee, its successors, heirs and assigns, and each successor-in-interest of the Grantor, by acceptance of a conveyance of said property or interest therein admits and agrees that any such use is a continuing permissive use. It is understood that each and every right and privilege hereby granted is free and alienable. Notwithstanding the foregoing, it is understood and agreed that this Grant of Easement shall not be construed as a Grant of fee title.

Grantee, its successors and assigns, shall restore, or cause to be restored, the surface or subsurface of the real property hereinabove described to the condition said property was in as of the time of performance of any enlargement, construction, reconstruction, removal and replacement, operation, inspection, maintenance, repair, improvement and relocation, and such restoration shall be performed with due diligence and dispatch.

IN WITNESS WHEREOF, this instrument has been executed the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

GRANTOR(S): \_\_\_\_\_

DATE: \_\_\_\_\_ BY: \_\_\_\_\_

DATE: \_\_\_\_\_ BY: \_\_\_\_\_

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interest in real property conveyed by Grant of Easement dated \_\_\_\_\_ from:

\_\_\_\_\_

to the **WEST VALLEY WATER DISTRICT**, a county water district, is hereby accepted by the undersigned officer or agent on behalf of the Board of Directors pursuant to authority conferred by Resolution No. \_\_\_ of the Board of Directors adopted on \_\_\_\_\_ and the Grantee consents to the recordation thereof by its duly authorized officer or agent.

**WEST VALLEY WATER DISTRICT**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_

Anthony Araiza, Secretary  
of the West Valley Water District  
and the Board of Directors thereof

(SEAL)

**EXHIBIT "G" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT**

**LYTLE PHASE I PROPERTY**

**EXHIBIT "G"****LYTLE PHASE I PROPERTY**

That certain property in the unincorporated area of the County of San Bernardino, State of California, described as:

Lettered Lots C, D, F, H and I; Lots 9 through 12, 16 through 21, 23 through 26, 28, and 31 through 34, inclusive, as shown on Tentative Tract Map No. 15900 effective December 18, 2001.

The legal description set forth in this Exhibit shall be updated upon the recording of the final Tract Map No. 15900.



**EXHIBIT "H" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
ESTIMATE OF DISTRICT COSTS AND EXPENSES**

## Engineering Costs for Projects related to Lytle Creek North Village Development

Project #'s	Project Names	Design Engineering	Construction Engineering			Totals
			Inspection	Survey	CM	
W04018	1. Zone 7 waterline in Riverside Ave./Sierra Ave. from Zone 7-1 Pump Station to Glen Helen Parkway - 24" x 7,000' <b>\$110,400</b>	50,500	36,400	7,500	16,000	110,400
W04019	2. Zone 7 waterline in Glen Helen Parkway from Lytle Creek Road to West Entry Dr. - 24" x 2,600' <b>\$42,600</b>	21,600	13,000	3,000	5,000	42,600
W04019	2a. Zone 8 waterline in Lytle Creek Rd./Glen Helen Parkway, from 8-3 Reservoir to West Entry Dr. <b>\$58,800</b>	28,000	20,800	5,000	5,000	58,800
	2b. Zone 8 waterline in Glen Helen Parkway from West Entry to the east is being designed by Lytles Engineer - 7,500 ft. - <b>\$5,250</b>		5,250			5,250
W05011	2c. 8-3 Reservoir <b>\$121,500</b>	37,500	62,000	5,000	17,000	121,500
W05010	3. Zone 8-2 Pump Station 1.9 MGD - <b>\$141,500</b>	9,945	9,520	340	4,250	24,055
W05007	4. Well No. 55 - drilling equipping <b>\$60,000</b>	* 25,000	* 20,000	* 5,000	* 10,000	60,000
W05004	5. Well No. 55 discharge line - 12" <b>\$54,000</b>	30,000	13,000	5,000	6,000	54,000
W05003	6. Water Treatment Plant raw waterline - 20" <b>\$124,700</b>	68,400	33,800	10,500	12,000	124,700
W05006	7. Reservoir 7-5 <b>\$280,000</b>	106,000	112,000	24,000	38,000	280,000
	8. Onsite Water Facilities <b>\$48,800</b>		46,800		2,000	48,800
W03004	9. Feasibility Study <b>\$61,986.38</b>				50%	30,993
W05002	10. New Membrane Filter Plant near I-15 Freeway and District Oversight & Plancheck					50,000

# Engineering Costs for Projects related to Lytle Creek North Village Development

W05012	11. Zone 6-2 Pump Station <b>\$170,000</b>	72,000	67,200	5,000	26,000
					170,200
					Subtotal
					1,181,298
					Contingency 10%
					118,130
					Total
					1,299,428

**EXHIBIT "I" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
FORM ASSIGNMENT AND ASSUMPTION AGREEMENT**

**FORM OF ASSIGNMENT AND  
ASSUMPTION OF HOOK-UP RIGHTS**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is effective as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between [LYTLE DEVELOPMENT COMPANY, a California corporation ("Lytle") OR [PHARRIS SYCAMORE FLATS, LLC, a California limited liability company ("Pharris") ("Transferor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Transferee"), with respect to the following facts:

RECITALS

A. Transferor and West Valley Water District, a public agency of the State of California ("District") are parties to that certain Water Facilities and Service Agreement dated as of \_\_\_\_\_, 2005 (the "Water Agreement").

B. The Water Agreement allows for the transfer of Lytle's unused Phase I Hook-Up Rights and Phase II Hook-Up Rights (each as defined in the Water Agreement), subject to the terms and conditions set forth in the Water Agreement.

C. Transferor desires to transfer [specify hook-up rights to be transferred] (collectively, the "Transferred Hook-Up Rights") to Transferee pursuant to the terms and conditions of this Agreement.

D. Transferee owns real property described and/or depicted in Schedule "I" attached hereto ("Transferee's Property"), which real property is located within the District's Pressure Zone 7 or Zone 8 Service Areas. Transferee desires to accept the transfer of the Transferred Hook-Up Rights from Transferor pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, Transferor and Transferee hereby agree as follows:

1. Assignment. Transferor hereby assigns to Transferee all of Transferor's right, title and interest in and to the Transferred Hook-Up Rights.

2. Assumption. Transferee hereby assumes, acknowledges, accepts and binds itself to all terms, conditions and obligations of the Water Agreement insofar as such Water Agreement applies to the Transferee's Property and to the transfer by Transferor of the Transferred Hook-Up Rights to Transferee.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year

first above written.

TRANSFEROR:

TRANSFeree:

\_\_\_\_\_, a  
\_\_\_\_\_

\_\_\_\_\_, a  
\_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**CONSENT:**

West Valley Water District hereby consents to Transferor's transfer of the Transferred Hook-Up Rights to Transferee pursuant to the terms and conditions of this Agreement. Nothing herein shall be construed to relieve Transferor from any obligation or liability under the Water Agreement.

DATE: \_\_\_\_\_

WEST VALLEY WATER DISTRICT, a  
public agency of the State of California

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT "J" TO THE  
WATER FACILITIES AND SERVICE AGREEMENT  
  
FORM OF MEMORANDUM OF AGREEMENT**





**LARRY WALKER**  
Auditor/Controller - Recorder

P Counter

RECORDING REQUESTED BY: )  
WHEN RECORDED MAIL TO: )  
WEST VALLEY WATER DISTRICT )  
P O BOX 920 )  
RIALTO CALIFORNIA 92377-0920 )  
ATTENTION: LEON LONG )  
ASSISTANT GENERAL MANAGER )

Doc#: 2005-0441198



Titles: 1      Pages: 10  
Fees                    0.00  
Taxes                   0.00  
Other                   0.00  
PAID                    \$0.00

Above Space for Recorder's Use Only

MEMORANDUM OF WATER FACILITIES AND SERVICE AGREEMENT

This MEMORANDUM OF WATER FACILITIES AND SERVICE AGREEMENT ("Memorandum") is made and effective as of May 27<sup>th</sup>, 2005 by and between the WEST VALLEY WATER DISTRICT, a public agency of the State of California ("District"), and LYTLE DEVELOPMENT COMPANY, a California corporation ("LDC"), and PHARRIS SYCAMORE FLATS, LLC, a California limited liability Company ("PSF") (LCD and PSF are collectively referred to herein as "Lytle"), with reference to the facts set forth below. The District and Lytle are referred to in this Memorandum collectively as the "Parties" and each individually as a "Party."

RECITALS

A. LDC is the owner of the property known as "Lytle Creek North," which is legally described on Exhibit "A" attached hereto and by this reference incorporated herein ("Lytle Creek North").

B. LDC's affiliate PSF owns additional future development properties in the vicinity of Lytle Creek North, which is known as the Sycamore Flats project and is legally described on Exhibit "B" attached hereto and by this reference incorporated herein (the "Sycamore Flats Property").

C.. Lytle Creek North and Sycamore Flats Property are sometimes collectively referred to herein as the "Lytle Property."

D. Pursuant to that certain Water Facilities and Service Agreement ("Water Facilities Agreement") of even date herewith between Lytle and District, District has agreed to provide water service for the Lytle Property subject to the satisfaction of certain conditions precedent and Lytle has assumed certain funding and construction obligations with respect to certain water facilities that will provide service to the Lytle Property, all as further described in the Water Facilities Agreement.

NOW, THEREFORE, the Parties hereto wish to record this Memorandum to give notice of the Water Facilities Agreement and the terms thereof, including the terms set forth below.

1. All terms undefined herein shall have the meaning ascribed to them in the Water Facilities Agreement.

2. Buyers and transferees of the Lytle Property are hereby notified that District's commitment to provide water service and hook-up rights for the Lytle Property is expressly conditioned upon the completion of certain water facilities and improvements as set forth in the Water Facilities Agreement. The issuance of a certificate of occupancy for a lot or parcel on the Lytle Property shall evidence the satisfaction of such conditions precedent to District providing water service under the Water Facilities Agreement to that lot or parcel and may be relied upon by any purchaser or transferee of such lot or parcel on which such building or condominium is located. Prior to the issuance of a certificate of occupancy for a lot or parcel, a prospective purchaser or transferee should contact the District at West Valley Water District, 855 West Baseline P.O. Box 920, Rialto, California 92377-0920, 909-875-1804, if they want to determine the status of the water facilities and service commitments for any applicable property within the Lytle Property.

3. The obligations and commitments of Lytle under the Water Facilities Agreement, including nay obligations to provide land, construct water facilities and improvements, and fund or contribute to the funding of costs are personal obligations of Lytle under the Water Facilities Agreement. Such obligations and commitments do not run with or burden the Lytle Property and will not become the obligations or commitment of subsequent purchasers or transferees of any portion of the Lytle Property unless such purchaser or transferee is a permitted assignee under the Water Facilities Agreement that expressly assume all or a portion of such obligations in writing in accordance with the requirements of the Water Facilities Agreement. Notwithstanding the foregoing, the District shall have no obligation to provide water service and hook-up rights to the Lytle Property unless the conditions precedent thereto are satisfied or transferee or buyer enters into a separate agreement with District with respect to water service and hook-up rights.

4. This Memorandum is being recorded to give notice of the conditions precedent to water service by District under the Water Facilities Agreement herein above described. This Memorandum is not intended to modify or alter in any way the terms and conditions of the Water Facilities Agreement.

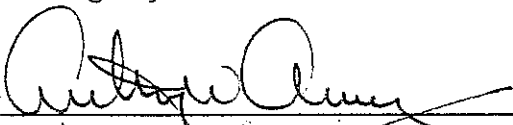
IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the day and year first above written.

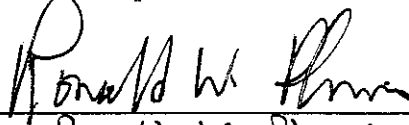
"DISTRICT"

"LDC"

WEST VALLEY WATER DISTRICT  
a public agency of the State of California

LYTLE DEVELOPMENT COMPANY,  
a California corporation

By   
Name Anthony A. Aiza  
Title General Manager

By   
Name Ronald W. Pharris  
Title Chairman

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of San Bernardino } ss.

On June 17, 2005 before me, Kim Palmer  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Anthony W. Araiza  
Name(s) of Signer(s)

- personally known to me
- 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.



WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

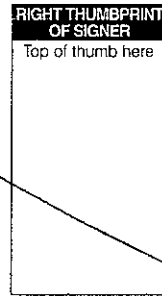
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

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

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



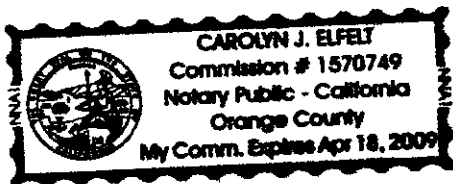
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Orange } ss.

On June 17, 2005 before me, Carolyn J. Elfelt, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Ronald W. Pharris  
Name(s) of Signer(s)

personally known to me  
 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.



WITNESS my hand and official seal.

Carolyn J. Elfelt  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

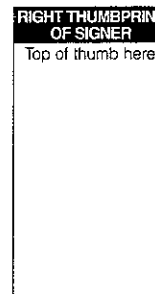
Title or Type of Document: Memorandum of Water Facilities and Service Agreement  
Document Date: May 27, 2005 Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: Anthony W. Araiza

**Capacity(ies) Claimed by Signer**

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

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



**EXHIBIT "A"****LEGAL DESCRIPTION OF LYTLE CREEK NORTH**

All of the lots of that certain real property located in an unincorporated area of the County of San Bernardino, State of California, described in Tentative Tract Map No 15900 effective December 18, 2001.

The legal description set forth in this Exhibit shall be updated upon the recording of the final Tract Map No. 15900.

EXHIBIT "B"

Real property in the City of , County of San Bernardino, State of California, described as follows:

## PARCEL NO. 1:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTH-EAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 18' 05" WEST, 1975.47 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 9 DEG. 19' 54" EAST, 657.10 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 10' 23" WEST, 658.74 FEET TO THE SOUTHWEST CORNER OF GOVERNMENT LOT 2 OF SAID SECTION 5; THENCE NORTH 0 DEG. 18' 52" EAST, 622.85 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF SAID GOVERNMENT LOT 2; THENCE NORTH 88 DEG. 03' 05" EAST, 1317.96 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF SAID GOVERNMENT LOT 2; THENCE SOUTH 0 DEG. 20' 55" WEST, 625.66 FEET TO THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH 88 DEG. 10' 23" EAST, 1317.48 FEET TO THE NORTHEAST CORNER OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 89 DEG. 30' 30" EAST ALONG THE NORTH LINE OF GOVERNMENT LOT 3 OF SAID SECTION 4, A DISTANCE OF 541.26 FEET; THENCE SOUTH 0 DEG. 49' 35" WEST, 838.17 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTH-EASTERLY AND HAVING A RADIUS OF 694.00 FEET FROM AN INITIAL TANGENT BEARING SOUTH 70 DEG. 18' 42" WEST THROUGH A CENTRAL ANGLE OF 23 DEG. 13' 40", A DISTANCE OF 281.35 FEET TO A POINT THAT BEARS SOUTH 42 DEG. 54' 58" EAST, A DISTANCE OF 432.97 FEET FROM THE POINT OF BEGINNING; THENCE NORTH 42 DEG. 54' 58" WEST, 432.97 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

## PARCEL NO. 2:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE NORTH 0 DEG. 20' 55" EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 5, A DISTANCE OF 493.63 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 0 DEG. 20' 55" EAST, 1482.69 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE NORTH 88 DEG. 18' 05" EAST, 1316.198 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SOUTHEAST

1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5; THENCE SOUTH 42 DEG. 54' 58" EAST, 432.97 FEET; THENCE SOUTH-WESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 694.00 FEET FROM AN INITIAL TANGENT BEARING SOUTH 47 DEG. 05' 02" WEST THROUGH A CENTRAL ANGLE OF 26 DEG. 35' 44", A DISTANCE OF 322.14 FEET; THENCE SOUTH 20 DEG. 29' 18" WEST, 970.42 FEET TO A POINT THAT BEARS NORTH 88 DEG. 25' 47" EAST, A DISTANCE OF 1103.46 FEET FROM THE TRUE POINT OF BEGINNING; THENCE SOUTH 88 DEG. 25' 47" WEST, 1103.46 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055.

PARCEL NO. 3:

ALL THAT PORTION OF SECTIONS 4 AND 5, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY; AND A PORTION OF THE RANCHO MUSCUPIABE, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE NORTH 0 DEG. 20' 55" EAST, ALONG THE WEST LINE OF SAID GOVERNMENT LOT 5, A DISTANCE OF 493.63 FEET; THENCE NORTH 88 DEG. 25' 47" EAST, 1103.46 FEET; THENCE NORTH 20 DEG. 29' 18" EAST, 970.42 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE NORTHEASTERLY ALONG SAID CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 694.00 FEET THROUGH A CENTRAL ANGLE OF 49 DEG. 49' 24", A DISTANCE OF 603.49 FEET; THENCE SOUTH 0 DEG. 49' 35" WEST, 878.61 FEET TO THE WESTERLY LINE OF STATE HIGHWAY NO. 31; THENCE SOUTH 21 DEG. 32' 45" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 80.08 FEET; THENCE SOUTH 25 DEG. 48' 50" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 993.15 FEET; THENCE SOUTH 22 DEG. 02' 59" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 645.85 FEET; THENCE SOUTH 33 DEG. 59' 10" WEST ALONG SAID WESTERLY LINE, A DISTANCE OF 805.86 FEET TO A POINT THAT BEARS SOUTH 87 DEG. 42' 11" EAST, A DISTANCE OF 42.86 FEET FROM RANCHO CORNER "M-4", AS SHOWN ON SAID MAP OF RANCHO MUSCUPIABE; THENCE NORTH 87 DEG. 42' 11" WEST, 42.86 FEET TO SAID RANCHO CORNER "M-4"; THENCE NORTH 8 DEG. 55' 47" WEST, 1209.25 FEET TO RANCHO CORNER "M-5", AS SHOWN ON SAID MAP OF RANCHO MUSCUPIABE; THENCE NORTH 52 DEG. 07' 45" EAST ALONG THE NORTHERLY LINE OF SAID RANCHO MUSCUPIABE, A DISTANCE OF 146.16 FEET TO THE SOUTH LINE OF SAID GOVERNMENT LOT 5 OF SAID SECTION 5; THENCE SOUTH 88 DEG. 39' 44" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 581.09 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

PARCEL NO. 4:

ALL THAT PORTION OF GOVERNMENT LOTS 3 AND 5 IN SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN

*First American Title*

BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO GOVERNMENT SURVEY, LYING  
EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH  
89 DEG. 30' 30" EAST, 541.26 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE  
DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 0 DEG. 49' 35" WEST TO  
A POINT ON THE WESTERLY LINE OF STATE HIGHWAY NO. 31, AS CONVEYED TO THE STATE  
OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL  
RECORDS, SAID POINT BEING THE TERMINUS OF SAID LINE.

EXCEPTING THEREFROM THAT PORTION LYING EASTERLY OF THE WESTERLY LINE OF THAT  
PARCEL CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962,  
IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN  
BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF  
CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055,  
RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

APN:



## PARCEL NO. 5

ALL THAT PORTION OF THE TRACT OF LAND OR RANCHO KNOWN AND DESIGNATED AS THE MUSCUIABE RANCHO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT STATION 4, IN THE WEST BOUNDARY LINE OF SAID RANCHO; THENCE NORTH 8 DEG. WEST, 18.00 CHAINS (1188.00 FEET) TO STATION 5; THENCE NORTH 54 DEG. EAST, 44 CHAINS TO STATION 6; THENCE SOUTH 78 DEG. EAST, 14 CHAINS TO STATION 7; THENCE NORTH 39 DEG. EAST, 4 CHAINS TO STATION 8; THENCE NORTH 1 DEG. 30' EAST, 26 CHAINS TO STATION 9; THENCE LEAVING SAID LINE AND FOLLOWING THE COURSES AND DISTANCES AS DELINEATED UPON A MAP SHOWING SUBDIVISION OF LANDS BELONGING TO THE SEMI-TROPIC LAND AND WATER COMPANY, AS PER PLAT RECORDED IN BOOK 6 OF MAPS, PAGE 12, RECORDS OF SAID COUNTY, SOUTH 15 DEG. 55' EAST, 20.52 CHAINS TO A STAKE MARKED NO. VIII; THENCE SOUTH 11 DEG. 35' EAST, 6.72 CHAINS TO A STAKE MARKED NO. VII; THENCE SOUTH 19 DEG. 45' EAST, 41.77 CHAINS TO A STAKE MARKED NO. VI; THENCE SOUTH 10 DEG. 37' WEST, 137 FEET TO A POINT; THENCE NORTH 83 DEG. 47' WEST, 4675.5 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION DESCRIBED AS:

BEGINNING AT STATION 6, RANCHO MUSCUIABE; THENCE SOUTH 78 DEG. 30' EAST ALONG THE NORTH LINE OF SAND RANCHO, 359 FEET; THENCE SOUTH 11 DEG. 30' WEST, 61 FEET; THENCE NORTH 68 DEG. 09' WEST, 363.89 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THOSE PORTIONS CONVEYED TO THE STATE OF CALIFORNIA FOR HIGHWAY BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS; AND BY DEED RECORDED AUGUST 30, 1974, IN BOOK 8506, PAGE 177, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY PORTION LYING WESTERLY OF THE EASTERLY LINE OF THE PROPERTY CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTION OF LOT 37, MUSCUIABE RANCHO, AS PER PLAT RECORDED IN BOOK 1, PAGE 24, OFFICIAL RECORDS; AND IN BOOK 7, PAGE 23, OFFICIAL RECORDS OF SAID COUNTY, SAID PORTION LYING WITHIN SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, SAID PORTION BEING DESCRIBED AS FOLLOWS:

BEGINNING AT CORNER "M-8" OF THE MUSCUIABE RANCHO, AS PER PLAT RECORDED IN BOOK 1 OF MAPS, PAGE 24, AND IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY, SAID CORNER BEING ALSO DELINEATED ON THAT CERTAIN MAP RECORDED APRIL 18, 1966, IN BOOK 25, PAGE 17, RECORDS OF SURVEY, IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE CONTINUING ALONG SAID RANCHO LINE NORTH 01 DEG. 35' 39" EAST (RECORD NORTH 1 DEG. 13' 56" EAST), A DISTANCE OF 1,733.41 FEET (RECORD 1,741.53 FEET) TO CORNER "M-9" OF SAID RANCHO; THENCE SOUTH 09 DEG. 50' 37" EAST (RECORD NORTH 10 DEG. 06' 24" WEST), A DISTANCE OF 1,814.28 FEET TO SEMI-TROPIC CORNER VIII

AS DELINEATED ON SAID RECORD OF SURVEY AS "SEMI-TROPIC COR. VIII"; THENCE SOUTH 12 DEG. 20' 55" EAST (RECORD NORTH 12 DEG. 36' 42" WEST), A DISTANCE OF 185.46 FEET TO A 1-INCH IRON PIPE, SAID PIPE BEING DELINEATED ON THE AFORESAID RECORD OF SURVEY AS "FD. 1" I.P. - SEMI-TROPIC COR. VII"; THENCE NORTH 89 DEG. 34' 37" WEST, A DISTANCE OF 401.54 FEET; THENCE NORTH 01 DEG. 35' 39" EAST, A DISTANCE OF 233.00 FEET, MORE OR LESS, TO THE AFORESAID CORNER "M-8" OF SAID RANCHO AND THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM ALL THAT PORTION OF THE TRACT OF LAND OR RANCHO KNOWN AND DESIGNATED AS THE MUSCUPIABE RANCHO, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAID COUNTY; AND ALL THAT PORTION OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO GOVERNMENT SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THE PROPERTY CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED DECEMBER 26, 1962, IN BOOK 6947, PAGE 231, OFFICIAL RECORDS, SAID POINT IS SOUTH 1 DEG. 13' 56" WEST, 2085.0 FEET AND NORTH 43 DEG. 00' 00" WEST, 2,172.00 FEET, PLUS OR MINUS FROM STATION 8 IN THE WEST BOUNDARY LINE OF MUSCUPIABE RANCHO, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 23, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA; THENCE SOUTH 43 DEG. 00' 00" EAST, A DISTANCE OF 2,172.00 FEET, PLUS OR MINUS; THENCE NORTH 1 DEG. 13' 56" EAST, A DISTANCE OF 2,085.00 FEET TO SAID STATION 8; THENCE SOUTH 28 DEG. 33' 13" WEST, A DISTANCE OF 263.55 FEET TO STATION 7; THENCE NORTH 78 DEG. 58' 12" WEST, A DISTANCE OF 564.95 FEET; THENCE SOUTH 11 DEG. 01' 48" WEST, A DISTANCE OF 108.47 FEET TO THE SOUTHERLY LINE OF DEVORE CUT-OFF ROAD; THENCE NORTH 62 DEG. 59' 57" WEST TO SAID EASTERLY LINE OF PROPERTY CONVEYED TO THE STATE OF CALIFORNIA; THENCE WESTERLY AND SOUTHERLY ALONG SAID STATE PROPERTY TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF CONDEMNED TO THE COUNTY OF SAN BERNARDINO BY FINAL ORDER OUT OF THE SUPERIOR AND MUNICIPAL COURTS OF CALIFORNIA, COUNTY OF SAN BERNARDINO - CENTRAL DISTRICT, CASE NO. 13055, RECORDED JUNE 19, 1997, INSTRUMENT NO. 97-217597, OFFICIAL RECORDS.

**EXHIBIT 1 TO PARTIAL ASSIGNMENT AND ASSUMPTION OF  
WATER FACILITIES AND SERVICES AGREEMENT  
DESCRIPTION OF PROPERTY**

That certain property in the unincorporated area of the County of San Bernardino, State of California described as:

Letter lot C, Lots 9 through 12 inclusive, 16 through 21 inclusive, 23 through 26 inclusive, 28, 31 through 34 inclusive, of Tract Number 15900, in the County of San Bernardino, State of California, as per plat recorded in Book 308 of maps, pages 60 through 81 inclusive, records of said county.

## Exhibit 3

## WATER FACILITIES ASSIGNMENT

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF WATER FACILITIES AND SERVICES AGREEMENT ("Assignment") is entered as of August 1, 2005, by LYTLE DEVELOPMENT COMPANY, a California corporation ("Assignor") and LENNAR LYTLE, LLC, a Delaware limited liability company ("Assignee"), with reference to the following facts:

A. Assignor and Assignee have entered into that certain Purchase Agreement and Escrow Instructions dated as of January 4, 2005 (as amended, the "Purchase Agreement"), pursuant to which Assignor has agreed to sell and Assignee has agreed to purchase certain real property described on Exhibit "1" attached hereto (the "Property").

B. Pursuant to the Purchase Agreement, Assignor has agreed to assign to Assignee certain of Assignor's rights and obligations under that certain Water Facilities and Services Agreement between Assignor and West Valley Water District ("West Valley"), dated as of May 27, 2005, attached hereto (the "Water Facilities and Services Agreement"), and Assignee has agreed to accept such assignment and assumption, pursuant to the terms of this Assignment.

C. The term "Water Facilities" and all other capitalized terms used in this Assignment without definition herein shall have the meaning ascribed to them in the Water Facilities and Services Agreement.

THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption of Obligations. Except for the Assignor's Retained Obligations (as defined in Paragraph 2 below), Assignor hereby assigns to Assignee and Assignee hereby assumes all of Assignor's obligations under the Water Facilities and Services Agreement (the "Assumed Water Facilities Obligations"), including, without limitation, (i) all commitments and obligations to design, contract for, install, construct, fund and/or maintain Water Facilities other than the Assignor Retained Water Facilities (as defined below) (the "Assumed Water Facilities"), including, without limitation, the obligation to fund all deposits required to be paid to West Valley with respect to such Assumed Water Facilities; (ii) all obligations to post bonds securing construction of the Assumed Water Facilities; (iii) all insurance obligations related to the Assumed Water Facilities; (iv) all obligations to indemnify West Valley in connection with the Assumed Water Facilities; (v) all obligations to obtain and/or convey to West Valley real property or easements within the boundaries of the Property; and (vi) any obligations to record any memorandum(a) evidencing the Water Facilities and Services Agreement with respect to the Property and to obtain any required acknowledgements or subordinations in accordance with Section 6.16 of the Water Facilities and Services Agreement with respect to the Property. Assignee agrees to assume and perform all such obligations in accordance with the terms and requirements of the Water Facilities and Services Agreement. Assignor shall be a third party beneficiary of Assignee's assumption of the foregoing obligations regarding the Assumed Water Facilities, and such assumed obligations shall not be waived or materially modified without the prior written consent of Assignor. Assignee hereby agrees to indemnify, defend, protect and hold Assignor, its affiliates and successors, and its and their respective officers, directors, shareholders, members, partners, owners, employees, agents and representatives (collectively, the "Assignor's Indemnitees") harmless from and against all claims, actions, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorney's fees) incurred by Assignor and/or Assignor's Indemnitees because of the failure of Assignee to timely and/or properly perform the Assumed Water Facilities Obligations in accordance with the Water Facilities and Services Agreement.

2. Assignor's Retained Obligations. Notwithstanding the foregoing, Assignee has not assumed and Assignor hereby retains the following obligations under the Water Facilities and Services Agreement ("Assignor's Retained Obligations"): (i) all obligations to obtain and/or convey to West Valley real property or easements outside the boundaries of the Property, except within public street rights-of-way, in accordance with Sections 2.1 and 2.2 of the Water Facilities and Services Agreement; (ii) all

obligations to process and fund Facility Entitlements and for satisfying mitigation requirements for the Compliance Facilities in accordance with Sections 1.2 and 1.3 of the Water Facilities and Services Agreement (the "Phase II Water Facilities Entitlement Costs"); (iii) all obligations to fund annexation costs in accordance with Section 4.1 of the Water Facilities and Services Agreement; (iv) all commitments and obligations to design, contract for, install, construct, fund and/or maintain the Water Filtration Plant Facilities (as defined in the Water Facilities and Services Agreement and listed as project numbers 7-8 and 7-9 on the Cost Allocation exhibit attached as Exhibit E to the Water Facilities and Service Agreement) (the "Assignor Retained Water Facilities"), including, without limitation, the obligation to fund all deposits required to be paid to West Valley with respect to such Water Filtration Plant Facilities, (v) all obligations to post bonds securing construction of the Assignor Retained Water Facilities; (vi) all insurance obligations related to the Assignor Retained Water Facilities; (vii) all obligations to indemnify West Valley in connection with the Assignor Retained Water Facilities and any other indemnity obligations to West Valley for claims and liability arising from events or acts which occurred prior to the Effective Date; (viii) any obligations to record any memorandum(um)(a) evidencing the Water Facilities and Services Agreement with respect to Seller's Other Property and to obtain any required acknowledgements or subordinations in accordance with Section 6.16 of the Water Facilities and Services Agreement with respect to Seller's Other Property (as defined in the Purchase Agreement); and (ix) any obligations to provide any Additional Infrastructure in the event Lytle assigns Hook-Up Rights in accordance with Section 3.4 of the Water Facilities and Services Agreement. Assignor hereby agrees to indemnify, defend, protect and hold Assignee, its affiliates and successors, and its and their respective officers, directors, shareholders, members, partners, owners, employees, agents and representatives (collectively, the "Assignee's Indemnitees") harmless from and against all claims, actions, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorney's fees) incurred by Assignee and/or Assignee's Indemnitees because of the failure of Assignor to timely and/or properly perform the Assignor's Retained Obligations in accordance with the Water Facilities and Services Agreement.

3. Assignment of Phase I Hook-Up Rights/ Retention of Phase II Hook-Up Rights. Assignor hereby assigns to Assignee all of Assignor's rights and interest in and to the Lytle Phase I Hook-Up Rights, subject to the applicable terms and conditions of the Water Facilities and Services Agreement. Assignee shall not use the Lytle Phase I Hook-Up Rights for, or permit the Lytle Phase I Hook-Up Rights to be transferred for, the benefit of any real property other than the Property. Upon issuance of the last building permit for Assignee's build-out of the Property, if Assignee has not used all of the Lytle Phase I Hook-Up Rights for units developed or to be developed by Assignee on the Property, then Assignee shall assign to Assignor (or Assignor's designee) all remaining Lytle Phase I Hook-Up Rights, without any further cost or compensation to be paid by Assignor. Assignee shall execute all instruments reasonably required by Assignor (or Assignor's designee) in connection with the assignment of such remaining Lytle Phase I Hook-Up Rights to Assignor. Assignor does not assign to Assignee hereunder, and reserves to itself and its successors and assigns, all right and interest in and to the Lytle Phase II Hook-Up Rights. Each party shall cooperate in executing such further documents as may be reasonably requested by West Valley, the County of San Bernardino or the other party to evidence the foregoing allocation of capacity and hook-up rights related to the Water Facilities and Services Agreement.

4. No Contribution or Reimbursement. Assignee hereby acknowledges and agrees that it shall perform its assumed obligations under this Assignment without any direct or indirect contribution, reimbursement or facility fees from Assignor or any owner, developer or user of Seller's Other Property (as defined in the Purchase Agreement) or any other property owned by Assignor or any affiliate of Assignor, and Assignee hereby irrevocably waives and agrees not to pursue collection of any such contribution, reimbursement or fees. Assignor hereby acknowledges and agrees that it shall perform the Assignor's Retained Obligations under this Assignment without any direct or indirect contribution, reimbursement or facility fees from Assignee or any owner, developer or user of the Property, and Assignor hereby irrevocably waives and agrees not to pursue any such contribution, reimbursement or fees.

5. West Valley Reimbursements and Deposits. Assignee shall be entitled to receive and retain any partial reimbursements or contributions from West Valley with respect to the over-sizing of pipelines included in the Assumed Water Facilities (i.e., for Projects 7-3 and 7-7 in the Water Facilities

and Services Agreement), and Assignor shall be entitled to receive any partial reimbursements or contributions from West Valley with respect to the over-sizing of the Water Filtration Plant Facilities (i.e., for Project 7-8 in the Water Facilities and Services Agreement).

6. Water Facilities and Services Agreement. A copy of the Water Facilities and Services Agreement is attached hereto as Exhibit "2" and is incorporated herein by this reference. Assignor represents and warrants to Assignee that the attached copy is a true and correct copy of the Water Facilities and Services Agreement executed by Assignor and West Valley.

7. Easements in Public Rights-of-Way. Assignor and Assignee shall cooperate in good faith to attempt to obtain any necessary easements within public streets or rights-of-way for pipelines and other Water Facilities to be constructed pursuant to the Water Facilities and Services Agreement, but the parties shall have no liability to each other if, despite their good faith efforts, the parties are unable to obtain such easements.

8. Attorneys' Fees. If any action is commenced by either party to enforce their rights under this Assignment or to collect damages as a result of the breach of any of the provisions of this Assignment, the prevailing party in such action shall be entitled to recover from the non-prevailing party all reasonable costs and expenses, including, without limitation, court costs and reasonable attorneys' fees, in addition to any other relief awarded by the court.

9. Miscellaneous. This Assignment shall be binding on the parties and their respective successors and assigns. The section headings of this Assignment are for reference and convenience only; accordingly, neither shall be used in interpreting this Assignment. This Assignment shall be governed by and interpreted in accordance with the laws of the State of California. This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same Assignment. All schedules attached hereto are hereby made a part hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first written above.

**ASSIGNOR:**

LYTLE DEVELOPMENT COMPANY,  
a California corporation

By: *Ronald W. Pharris*  
Ronald W. Pharris, Chairman

By: *Gerald N. Pharris*  
Gerald N. Pharris, President

**ASSIGNEE:**

LENNAR LYTLE, LLC,  
a Delaware limited liability company

By: LENNAR HOMES OF CALIFORNIA, INC., a  
California corporation, its Member and Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first written above.

**ASSIGNOR:**

LYTLE DEVELOPMENT COMPANY,  
a California corporation

By: \_\_\_\_\_  
Ronald W. Pharris, Chairman

By: \_\_\_\_\_  
Gerald N. Pharris, President

**ASSIGNEE:**

LENNAR LYTLE, LLC,  
a Delaware limited liability company

By: ~~LENNAR HOMES OF CALIFORNIA, INC., a~~  
~~California corporation, its Member and Manager~~

By: [Signature]  
Name: [Name]  
Its: N.P.

By: [Signature]  
Name: [Name]  
Its: N.P.



## Exhibit 4

**FIRST AMENDMENT TO WATER FACILITIES  
AND SERVICE AGREEMENT**  
**(Lytle Creek/Sycamore Flats)**

This First Amendment to Water Facilities and Service Agreement ("Amendment") is entered into as of April ~~6<sup>th</sup>~~, 2006, by and between LENNAR LYTLE, LLC, a Delaware limited liability company ("Lennar"), and WEST VALLEY WATER DISTRICT, a public agency of the State of California ("District").

The parties desire to amend the Agreement in order to clarify certain construction obligations of Lennar and the reimbursement obligations of District. For good, valuable and sufficient consideration received, the parties hereby agree as follows:

1. **Assignment.** Lytle Development Company, a California corporation ("Lytle"), Pharris Sycamore Flats, LLC, a California limited liability company ("Pharris"), and District are parties to that certain Water Facilities and Service Agreement, dated as of May 27, 2005 (the "Agreement"), pursuant to which Lytle and Pharris agreed to construct certain water facilities on the "Lytle Property" (as defined in the Agreement), and District agreed to reimburse Lytle and Pharris for a portion of such construction. All capitalized terms used but not defined herein shall have the meaning given to them in the Agreement.

On or about August 1, 2005, pursuant to that certain Partial Assignment and Assumption of Water Facilities and Services Agreement attached hereto as Exhibit "A" ("Assignment"), Lytle assigned a portion of its rights and obligations under the Agreement, termed the "Assumed Water Facilities Obligations", to Lennar, all of which rights and obligations Lennar accepted and assumed.

2. **Reservoir 7-4.** The parties acknowledge and agree that Project Number 7-1(A), as described on Exhibit "E" to the Agreement, identified as Reservoir 7-4, has been increased from a 0.5 million gallon (mg) tank to a 3.0 mg welded steel tank ("7-4 Tank"), which Lennar shall construct as one of the Assumed Water Facilities Obligations. Lennar's cost obligation for the construction of the 7-4 Tank remains at 0.5 mg. The rest of the entry for Project Number 7-1(A) on Exhibit "E" to the Agreement is amended as follows: (a) the Estimated Facility Cost to construct the 7-4 Tank is \$1,420,251; (b) the Lytle Contribution, assumed by Lennar, shall be one-sixth (1/6) of the construction cost (0.5 mg of the total 3.0 mg), which is estimated to be \$236,708; and (c) the District Contribution shall be five-sixths (5/6) of the construction cost (2.5 mg of the total 3.0 mg), which is estimated to be \$1,183,543. In addition, Lennar and District shall share the costs for certain site work, including but not limited to grading, related to the construction of the 7-4 Tank ("7-4 Tank Site Work"). Lennar's share of the cost of the 7-4 Tank Site Work shall be fifty-seven percent (57%) and District's share of the cost of the 7-4 Tank Site Work shall be forty-three percent (43%). Further, District shall pay one-half (1/2) of the costs related to the installation and construction of the main pipe running between the 7-4 Tank and Reservoir 7-3 (as identified in Exhibit "E" to the Agreement). Lennar shall be responsible for all other yard piping costs. District shall reimburse Lennar for District's share of all costs described in this Paragraph 3 in accordance with the terms of Section 1.8 of the Agreement.

3. **Cost Overruns.** In the event that the construction costs on the 7-4 Tank and the 7-4 Tank Site Work increase from the amounts on the schedule of values used to determine the Estimated Facility Costs as set forth on Exhibit "E" to the Agreement, as amended herein, and such increase is the result of changes in design or development requirements required or design errors caused by District ("Cost Overruns"), District shall bear five-sixths (5/6) and Lennar shall bear one-sixth (1/6) of such Cost Overruns. District shall reimburse Lennar for District's share of the Cost Overruns in accordance with the reimbursement provisions of Section 1.8 of the Agreement.

4. **Agreement Unchanged and Complete.** Except as expressly amended by this Amendment, the Agreement remains unchanged and in full force and effect. The Agreement as amended by this Amendment contains the entire agreement of the parties. Each of the parties represent and warrant that it does not believe or claim that there are any prior or contemporaneous agreements or understandings between the parties, oral or written, and that it is not relying on agreements or understandings other than those that are expressly contained in the Agreement as amended by this Amendment.

5. **Authority.** Each person signing this Amendment on behalf of a party hereto represents and warrants that that party has duly authorized him or her to execute and deliver this Amendment and by so doing to bind that party.

6. **Counterparts.** This Amendment may be signed in counterparts.

IN WITNESS WHEREOF, the parties have executed this First Amendment to Water Facilities and Service Agreement as of the date first set forth above.

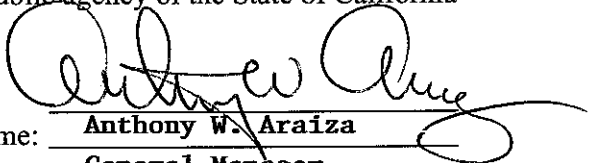
**"LENNAR"**

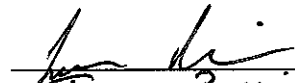
**"DISTRICT"**

LENNAR LYTLE, LLC,  
a Delaware limited liability company

WEST VALLEY WATER DISTRICT,  
a public agency of the State of California

By: Lennar Homes of California, Inc.,  
a California corporation,  
its Managing Member

By:   
Name: Anthony W. Araiza  
Title: General Manager

By:   
Name: Jason Perrin  
Title: Vice President

**LCW** LIEBERT CASSIDY WHITMORE

A PROFESSIONAL LAW CORPORATION

6033 W. Century Boulevard  
5<sup>th</sup> Floor  
Los Angeles, CA 90045  
310-981-2000  
Fed. Tax I.D. #95-3658973

Attorney – Client Privilege

West Valley Water District  
Haydee Sainz  
Human Resources & Risk Management Manager  
855 W. Baseline Road  
Rialto, CA 92377

Invoice 209634  
November 30, 2021

Client/Matter No.: WE126-00001  
Re: General

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**Billing Summary**

Total Fees	\$750.00
Total Costs	\$0.00
Total Charges	<u>\$750.00</u>

HUNT ORTMANN PALFFY NIEVES  
DARLING & MAH, INC.  
301 N. LAKE AVE  
7TH FLOOR  
PASADENA, CA 91101  
(626) 440-5200

WEST VALLEY WATER DISTRICT  
Attn: Accounts Payable  
P.O. BOX 190  
RIALTO, CA 92377

January 14, 2022

Account # 7473.002  
Invoice # 91190

In Reference to: Contracts

FOR PROFESSIONAL SERVICES RENDERED THROUGH 12/31/2021 SUMMARY OF FEES AND COSTS:

Total Fees:	\$22,666.50
Total Costs:	\$0.00
<b><u>Total Balance Due</u></b>	<b><u>\$22,666.50</u></b>


**Carpenter, Rothaus & Dumont LLP**

500 South Grand Avenue, 19th Floor  
 Los Angeles, California 90071  
 T: 213.228.0400  
 F: 213.228.0401  
 www.crdlaw.com

Mr. Robert Manuel Nacionales Tafoya  
 GENERAL COUNSEL  
 WEST VALLEY WATER DISTRICT  
 316 W. 2NC STREET, SUITE 200  
 LOS ANGELES, CA 90012

*Handwritten notes in a circle:*  
 JH  
 DM  
 11/31/22

RE: GUNN, DIANA v. WEST VALLEY WATER DISTRICT  
 CLAIM NO.: UNKNOWN  
 DATE OF LOSS: 06/30/2020  
 CASE NO.: CIV SB 2117195  
 OUR FILE NO: WVWD.1001

**BILLING INVOICE SUMMARY**

	Current	YTD	FTD
Invoice #	39375		
FEES	\$3,080.00	\$3,080.00	\$3,080.00
COSTS	\$113.74	\$113.74	\$113.74
<b>TOTAL</b>	<b>\$3,193.74</b>	<b>\$3,193.74</b>	<b>\$3,193.74</b>
<b>TOTAL DUE FOR SEPTEMBER 2021:</b>		<b>\$3,193.74</b>	



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 LOS ANGELES, CA 90012

RE: GUNN, DIANA v. WEST VALLEY WATER DISTRICT  
 CLAIM NO.: UNKNOWN  
 DATE OF LOSS: 06/30/2020  
 CASE NO.: CIV SB 2117195  
 OUR FILE NO: WVWD.1001

### BILLING HISTORY OF FEES AND COSTS TO DATE

<u>BILLING PERIOD</u>	<u>FEES YTD</u>	<u>COSTS YTD</u>	<u>TOTAL YTD</u>
09/01/21 TO 09/30/21	\$3,080.00	\$113.74	\$3,193.74
10/01/21 TO 10/31/21	\$1,485.00	\$19.04	\$1,504.04
<b>TOTAL BILLED 2021</b>	<u>\$4,565.00</u>	<u>\$132.78</u>	<u>\$4,697.78</u>
<b>TOTAL BILLED:</b>	<u>\$4,565.00</u>	<u>\$132.78</u>	<u>\$4,697.78</u> ←


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 DATE OF LOSS: 06/30/2020  
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 OUR FILE NO: WVWD.1001

**BILLING INVOICE SUMMARY**

	Current	YTD	FTD
Invoice #	39638		
FEES	\$1,485.00	\$4,565.00	\$4,565.00
COSTS	\$19.04	\$132.78	\$132.78
<b>TOTAL</b>	<u><u>\$1,504.04</u></u>	<u><u>\$4,697.78</u></u>	<u><u>\$4,697.78</u></u>
<b>TOTAL DUE FOR OCTOBER 2021:</b>		<u><u>\$1,504.04</u></u>	


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<b>TOTAL BILLED 2021</b>	<b>\$3,080.00</b>	<b>\$113.74</b>	<b>\$3,193.74</b>
<b>TOTAL BILLED:</b>	<b>\$3,080.00</b>	<b>\$113.74</b>	<b>\$3,193.74</b>