

CITY OF LA CAÑADA FLINTRIDGE  
SEWER CONNECTION AGREEMENT

Permit No. \_\_\_\_\_

Parcel No. \_\_\_\_\_

ESC Payment  
Amount \_\_\_\_\_

THIS AGREEMENT (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of La Cañada Flintridge, a municipal corporation (the "City") and \_\_\_\_\_ and \_\_\_\_\_, owners ( the "Owner") of that certain real property located at \_\_\_\_\_.

RECITALS

1. The City constructed new sewers for an area within the City boundaries commonly known as Project Area 3A ("Area 3A"), as part of the City's Sewer Assessment District No. 04-1 (Project Areas 3A and 3B), approved by property owners within the assessment district's boundaries by an assessment ballot protest proceeding and formed by the City Council of the City on June 14, 2004.

2. The City entered into an agreement with the Crescenta Valley Water District (the "District") to convey wastewater from Area 3A to the sewer transportation and treatment facilities of the City of Los Angeles ("Los Angeles"). As consideration for the use of the District's facilities for conveyance of wastewater, the City agreed to pay the District an initial capacity charge, an annual capacity charge, and a share of the District's annual operation and maintenance expenses (the "District Fees").

3. The City entered into a separate agreement with Los Angeles for the treatment and disposal of the City's wastewater conveyed through the District's facilities. Pursuant to the agreement with Los Angeles, as consideration for the treatment and disposal of the City's wastewater the City agreed to pay a proportionate share of Los Angeles' annual operations and maintenance expenses for its sewerage system (the "LA Fees").

4. Owner is the owner of real property located in the City and Area 3A (the "Property") and desires to connect to the City's sewer system (the "System"). Owner has submitted to the City Sewer-Sewage Disposal Permit No. \_\_\_\_\_ (the "Permit"), attached hereto as Exhibit A and by this reference incorporated herein, in order to connect to the System.

5. On the date of the execution of the Permit and this Agreement, the City has not adopted a wastewater service charge ("Service Charge") to be imposed on properties connecting to the System. Such Service Charge would recover the City's annual operation and maintenance costs and capital costs, District Fees, and LA Fees incurred by the City as a result of the System.

6. Owner, however, desires to connect to the System prior to the adoption of such Service Charge. As consideration for the right to connect to the System at this time and to have his wastewater conveyed, treated and disposed of, Owner agrees to pay the City, at the time Owner submits the Permit, (i) a connection fee and (ii) an estimated wastewater service charge (“ESC”). Such ESC shall be: (A) prorated for the then current fiscal year based on the date the Permit is issued; and (B) calculated on the basis of the estimated cost of providing the wastewater service to the Property, including the Property’s proportionate share of the District Fees and the LA Fees.

**NOW THEREFORE, IT IS AGREED** between the parties as follows:

**Section 1. Recitals.** The foregoing Recitals are true and correct.

**Section 2. City’s Obligations.** The City shall:

A. approve the Permit;;

B. and following (i) execution of this Agreement by the parties, (ii) compliance by the Owner with all applicable local, State of California, and federal laws, rules, and regulations regarding the connection of the Property to the System, and (iii) connection of the Property to the System, convey, treat, and dispose, or cause to be conveyed, treated, and disposed, Owner’s wastewater.

**Section 3. Owner’s Obligations.** Owner shall pay the connection fee and the prorated ESC in the amount referenced above at the time he submits his Permit. A time credit of one month shall be allowed when computing the amount of the ESC in order to account for any time necessary to connect the Property to the System.

**Section 4. Owner’s Representations.** Owner hereby represents as follows:

A. Owner understands and acknowledges that:

1. California Constitution, article XIII D, section 6 (“Article XIII D”) establishes certain procedural and substantive requirements which apply when any local agency, such as the City, imposes a new or increases an existing property-related fee or charge, such as the Service Charge and the ESC.

2. The procedural requirements of Article XIII D include, among other things, the following:

(a) The local agency shall identify the parcels upon which the fee or charge shall be imposed and provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel.

(b) The notice shall identify (i) the amount of the fee or charge; (ii) the basis upon which the amount was calculated; (iii) the reason for the fee or charge; and the (iv) date, time, and location of a public hearing on the proposed fee or charge.

3. The substantive requirements of Article XII D include, among other things, the following:

(a) The local agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge. At the public hearing, the public agency shall consider all protests against the fee or charge. If written protests against the imposition of the proposed fee or charge are presented by a majority of the affected property owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Revenues derived from any fee or charge shall not exceed the fund required to provide the property related service.

(c) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(d) The amount of the fee or charge shall not exceed the proportional cost of the service attributable to the parcel.

(e) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. fees or charges based on potential or future use of the service are not permitted.

(f) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance, or library services where the service is available to the public at large in substantially the same manner as it is to property owners.

4. The description of the procedural and substantive requirements established by and contained in Article XIII D set forth above are intended only to summarize certain of such procedural and substantive requirements.

5. The City would not agree to issue the Permit and allow the Owner to connect to the System prior to the adoption of the Service Charge unless the City is assured that it had sufficient revenues to operate and maintain the System. The payment of the ESC by the Owner is both a material inducement to and a material consideration for the City to enter into this Agreement and agree to issue the Permit prior to the adoption of the Service Charge.

B. Owner has had a reasonable opportunity to thoroughly read and review Article XIII D in its entirety and has further had a reasonable opportunity to consult with Owner's attorney regarding Article XIII D and the terms and conditions of this Agreement.

### **Section 5. Owner's Waiver of Rights**

A. In consideration of the approval by the City of the Permit prior to the adoption of the Service Charge, Owner hereby waives Owner's rights under Article XIII D.

B. In order that the City may be assured of its ability to legally impose the ESC on the Property and, therefore, be willing to enter into this Agreement and agree to approve

the Permit prior to the adoption of the Service Charge, Owners represents and warrants that he has knowingly and voluntarily waived for and on behalf of Owner, Owner's successors, heirs, assigns and/or transferees, each and every one of the rights specified in Section 5. A. above.

C. Nothing in this waiver of rights section is intended to waive Owner's rights to protest the future adoption of a Service Charge by the City.

## **Section 6. General Provisions**

A. Except as specifically provided in this Agreement, nothing contained herein shall be construed as releasing owner from any condition of the Permit or requirement imposed by any other agreement with the City or by any law rule, or regulation of the City, the County of Los Angeles, the State of California, or the federal government respecting the Property and the connection of the Property to the System.

B. Any provision of this Agreement that requires the consent, approval, discretion, or acceptance of any party hereto or any of their respective employees, officers, or agents shall be deemed to require that such consent, approval, or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

C. This Agreement and any Exhibits hereto contain all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended, or added to except in writing signed by each of the parties.

D. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

E. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

F. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights under the default of any other party, shall not constitute a waiver of such party's right to insist on demand strict compliance by any other party with the terms of this Agreement.

G. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

H. This Agreement may be executed in counterparts, each of which shall be deemed an original.

I. This Agreement has been reviewed by legal counsel for both the City and the Owner and shall be deemed for all purposes to have been jointly drafted by the City and the Owner. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair

meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives of the parties. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

J. Any Recitals set forth above and any Exhibits attached hereto are incorporated by reference to this Agreement.

K. Each signatory and party to this Agreement represents and warrants to the other party that he or she has legal authority and capacity and direction from its principal to enter into this Agreement, and that all necessary actions have been taken so as to enable such party to enter into this Agreement.

[The remainder of this page is left intentionally blank.]

SIGNATURE PAGE

Signed by the Owner this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

OWNER:

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

\_\_\_\_\_  
(Print name here)

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

\_\_\_\_\_  
(Print name here)

CITY OF LA CAÑADA FLINTRIDGE

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

\_\_\_\_\_  
(Print name and title)

APPROVED AS TO FORM  
City Attorney

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