



Memorandum for Record

Dated: March 19, 2019

To: All CCSUD Customers and Potential/Prospective Customers

From: CCSUD Management

Sub: Agreements/Contracts

In order to protect Crystal Clear Special Utility District (CCSUD) and CCSUD Customers and/or CCSUD Potential/Prospective Customers, any and all agreements for services and work will be required to be in writing. This includes but not limited to any/all line/system extensions and line/system upgrades/improvements, regardless of the amount of the costs to the CCSUD Customers and/or CCSUD Potential/Prospective Customers. CCSUD does **NOT** and will **NOT** honor any alleged verbal agreements in regards to any/all projects/upgrades. All agreements/contracts must include proper documentation and signatures of all parties involved or they will **NOT** be considered valid.

CCSUD Management

Customer Printed Name

Date

Customer Signature

.....
Received by:

CCSUD Staff Printed Name

Date

CCSUD Staff Signature

CRYSTAL CLEAR SPECIAL UTILITY DISTRICT NON-STANDARD SERVICE AGREEMENT

THIS AGREEMENT is made and entered into by and between _____, hereinafter referred to as "Developer," and Crystal Clear Special Utility District, hereinafter referred to as "CCSUD."

WHEREAS, Developer is engaged in developing that certain approximately _____ acres of land on _____ in _____ County, Texas, more particularly known or to be known as "the Property" and identified by full legal description on Attachment "A" attached hereto and incorporated herein for all purposes; and,

WHEREAS, CCSUD owns and operates a water system which supplies potable water for human consumption and other domestic uses to customers within its state-certificated service area [certificate of convenience and necessity ("CCN") No. 10297]; and,

WHEREAS, Developer has requested CCSUD to provide such water service to the Property through CCSUD's water system.

NOW THEREFORE: KNOW ALL MEN BY THESE PRESENTS: THAT for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties, Developer and CCSUD agree as follows:

1. Engineering and Design.

(a) Engineer Report See Attachment "B"

The Water System Extension shall be designed and constructed to provide non-standard water utility service to the Property. The Water System Extension shall be engineered and in accordance with the applicable standard specifications of the CCSUD and all governmental agencies having jurisdiction. CCSUD shall oversee and inspect all design work and construction and may charge Developer a reasonable fee for this work.

The non-standard service requirements of the Property are set forth on Attachment "C" attached hereto and incorporated herein for all purposes. Any Water System Extension must be sized to provide continuous and adequate water service to the property based on plans for the development of the Property provided to CCSUD by the Developer.

The specific terms and conditions of the extension of CCSUD's retail public water utility service are listed on Attachment "B." In the absence of a necessary term or in the event

of conflict with any provision in this general Agreement, the terms in Attachment “B” shall control.

(b) Distribution System.

The water lines, service lines, meters and related portions of the distribution system infrastructure within the boundaries of the Property (Hereinafter the “Distribution System”) May be engineered and designed by Developer’s consulting engineer, which engineer shall be responsible for overseeing the construction of the Distribution system under the applicable rules of the Texas Commission on Environmental Quality (“TCEQ”) and the Texas Board of Professional Engineers (“TBPE”). Should CCSUD’s Engineer be required to engineer or design improvements to the Distribution System, the Developer shall pay fees as detailed in Attachments.

(c) Production System.

All water production, storage, treatment, pressure, transmission outside the Property and other non-Distribution System facilities (herein after the “Production System”) May be engineered and designed by Developer’s consulting engineer, which engineer shall be responsible for overseeing the construction of the Distribution system under the applicable TCEQ and TBPE rules. All engineering and designs for the Distribution and Production Systems must be reviewed and approved by CCSUD's consulting engineer prior to commencement of any utility system construction on the property. After completion of the plans and specifications by the Developer’s and CCSUD's consulting engineers and their approval by the CCSUD's consulting engineer, the plans and specifications shall become part of this Agreement by reference and shall more particularly define "the Water System Extension". Should CCSUD’s Engineer be required to engineer or design improvements to the Production System, the Developer shall pay fees as detailed in Attachments.

(d) Oversizing.

CCSUD may require the Water System Extension to be oversized in anticipation of the needs of other customers of the CCSUD, subject to the obligation to reimburse the Developer for any such oversizing as provided below. At CCSUD’s option, reimbursement may be in the form of a credit against any connection fees Developer may have to pay. CCSUD’s obligation to pay for oversizing shall not apply to oversizing related to fire flows or firefighting capacities requested by Developer.

(e) Fire Flows.

If the Developer has requested and CCSUD has agreed to provide additional water service capacities to the Property sufficient to provide fire flows. This non-public drinking water service shall be provided under CCSUD’s policies.

(f) Cost Changes.

Due to the variable market for needed materials and supplies, quotations for the cost of construction of utility plant and/or upgrades that will be necessary to meet the service demands of the service application shall be good only for the date of presentation by the Corporation's engineer and/or contractor. For purposes of this Agreement, the "date of presentation" means the date the quotations and Water System Extension plans were presented to and approved by CCSUD's Board of Directors. Following the date of presentation, materials and supplies for construction may include an adjustment to reflect current market prices if such changes are found reasonable and approved in writing by CCSUD's consulting engineer. All costs of change orders or other modifications of the engineered design and/or TCEQ-approved plans shall be borne by Developer unless such changes or modifications are made at CCSUD's request for the sole benefit of other CCSUD customers.

2. Required Easements or Rights-of-Way.

Developer shall be responsible for dedicating or acquiring any easements across privately owned land which are necessary for the construction of the Water System Extension and for obtaining any Governmental approvals necessary to construct the Water System Extension in public right-of-way. If Developer cannot obtain any easement identified by CCSUD as necessary, Developer may request CCSUD to exercise its statutory powers of eminent domain to obtain such easement(s). Developer shall bear all costs related to such condemnation proceedings, including all consideration and litigation costs of the condemnation. CCSUD may require Developer to escrow all such projected costs before initiating any condemnation actions for Developer's benefit. By requesting CCSUD to initiate a condemnation of private property, Developer acknowledges and consents to any delays to final provision of retail public water utility service to the Property occasioned by Developer's failure to independently provide CCSUD with necessary easement(s).

All pipeline easements assigned to CCSUD hereunder shall be (and not less than) 20-feet in width within the Property and 20-feet in width outside the Property. The pipeline easement(s) shall be located on private property along a route that best facilitates the most reliable and efficient operation of the Water System Extension. If such optimal route adversely affects Grantee, Developer may request an alternate course of the easement except that when the pipeline(s) or plant is installed, the easement herein granted shall be limited to a strip of land 20-feet in width the centerline or center-point thereof. CCSUD's consulting engineer shall have the final decision on where any easement must be located.

If continuous and adequate retail public water utility service to the Property requires the construction of new Production System facilities, Developer shall provide CCSUD with all the sites necessary to construct and operate such facilities. The site(s) shall be conveyed in fee or, with CCSUD's consent, by exclusive permanent recorded easement. Developer shall also provide CCSUD with all pipelines, utility, ingress/egress and sanitary control easements identified by CCSUD's consulting engineer and attorney as necessary to the use of said site(s) for water utility purposes. All ingress/egress easements shall be sufficient to construct and maintain an all-weather road from the

site(s) to the nearest public road. All sanitary control easements shall comply with all requirements of 30 AC §290.38(48), .41 and .47(c).

Any easements acquired by the Developer shall be assigned to CCSUD upon proper completion of the construction of the Water System Extension. CCSUD's attorney must approve the validity of the legal instruments by which the Developer acquires any such easements and by which Developer assigns such easements to CCSUD. Developer shall be responsible for obtaining, at its expense, any consent or release required by any person or entity having a lien or other security interest in the easement or real property to be encumbered by said easement(s).

3. Term of Contract.

Execution of this Agreement shall bind the parties for a period of two calendar years. To extend the contract beyond two years, Developer shall be required to pay connection fees and tap fees for one-half or more of the anticipated residential or commercial building sites within the Property during the initial two-year period. Payment of at least one-half of the anticipated connection fees will extend the contract an additional two years. Construction must commence within six months of the payment of said connection fees.

The connection and tap fees to be paid shall be fees included in CCSUD's Rules and Regulations on the date of payment. Connection and Installations fees shall not be "grandfathered".

4. Construction of the Water System Modifications, Changes or Extensions.

(a) Production System

- (1) Developer may select his own contractor for the construction of the Production System, subject to CCSUD's right to veto such selection if CCSUD, its consulting engineer or its attorney has had unacceptable prior experience with said contractor and/or his work. If CCSUD rejects Developer's designated contractor, Developer shall be authorized to select another contractor. No construction will commence until plans and specifications for the Production System have been submitted to and approved by the TCEQ and any other required regulatory agency, as may be required by law. CCSUD shall have no liability of any kind to Developer occasioned by delays or difficulties in obtaining any required governmental approvals, permits, licenses or certificates.
- (2) The Production System shall be constructed in accordance with the approved plans and specifications. CCSUD shall have the right to inspect all phases of the construction of the Production System. Developer must give written notice to CCSUD of the date on which construction is scheduled to begin within the Property that may affect any portion of the Production System so that CCSUD may assign an inspector.

(b) Distribution System

- (1) Developer may select his own contractor for the construction of the Distribution System, subject to CCSUD's right to veto such selection if CCSUD, its consulting engineer or its attorney has had unacceptable prior experience with said contractor and/or his work. If CCSUD rejects Developer's designated contractor, Developer shall be authorized to select another contractor or to request CCSUD to obtain a suitable contract through a bid procedure. No construction will commence until plans and specifications for the Distribution System have been submitted to and approved by the TCEQ and any other required regulatory agency, as may be required by law. CCSUD shall have no liability of any kind to Developer occasioned by delays or difficulties in obtaining any required governmental approvals, permits, licenses, certificates or contractor acceptable to both CCSUD and Developer. CCSUD shall have no liability whatsoever for the acts and omissions of Developer, his engineer(s), his contractor(s) or his subcontractor(s). CCSUD shall have no liability or responsibility to third persons for the materials and supplies used by Developer. Developer's liability or responsibility to CCSUD for the materials and supplies used shall be limited to the one-year warranty in Paragraph 4. Developer shall be responsible and liable for the safety of the work site and the preservation of materials and equipment related to the Distribution System. Developer shall hold CCSUD harmless for any claims, demands, suits or causes of action related to the Developer-constructed Distribution System. Developer shall indemnify CCSUD for all expenses or damages incurred by CCSUD, including attorney and litigation costs, related to the Developer-constructed Distribution System. All rights and protections of CCSUD in this Paragraph shall be extended to CCSUD's directors, officers, employees, attorney(s), engineer(s), contractor(s), and subcontractor(s).
- (2) The Distribution System shall be constructed in accordance with the approved plans and specifications. CCSUD shall have the right to inspect all phases of the construction of the Distribution System. Developer must give written notice to CCSUD of the date on which construction of the Distribution System is scheduled to begin so that CCSUD may assign an inspector.

5. Dedication of Water System Extension to CCSUD.

Upon proper completion of construction of the Water System Extension and final inspection thereof by CCSUD, the Water System Extension, including all components real and personal of the Production and Distribution Systems, shall be dedicated to the CCSUD by an appropriate legal instrument approved by CCSUD's Attorney. Developer shall bear any costs of remediation or rehabilitation necessary to bring the Water System Extension into compliance with all state, federal, and CCSUD standards before

acceptance by CCSUD. CCSUD shall have to the sole decision of when the Water System Extension is acceptable. The Water System Extension shall thereafter be owned and maintained by CCSUD; however, Developer shall warrant the construction and suitability of the same for a period of one (1) calendar year and shall bear all costs of repairs and improvements during this warranty period.

6. Subdivision and Development Restrictions.

Developer shall create and enforce permanent and irrevocable subdivisions and/or development deed, plat or other restrictions and/or covenants running with the land that shall prohibit the construction of private potable water systems or water wells within the "the property". No interconnection between a private, non-potable water supply and the CCSUD's water supply may be constructed or maintained except in strict conformance with applicable state or federal health, safety, environmental or utility regulations.

7. Cost of the Water System Extension.

- (a) Developer shall pay all costs associated with the Water System modifications, changes or extensions as a contribution in aid of construction, including without limitation to the cost of the following:
- (1) engineering and design;
 - (2) easement or right -of-way acquisition;
 - (3) construction;
 - (4) inspection;
 - (5) attorneys' fees;
 - (6) governmental or regulatory approvals required to lawfully provide service, including all costs of amending CCSUD's certificate of convenience and necessity;
 - (7) CCSUD's prescribed Connection Fee (by anticipated meter size) and/or capacity reservation charge shall be charged for each lot and/or service connection for which the Water System Extension is designed to serve less credit for any production, treatment, storage, pressure and transmission facilities, *i.e.*, the Production System, added to CCSUD's utility system at Developer's expense to serve the property in question; however, no credit shall be provided for distribution lines, valves, taps, services, flush valves and appurtenances thereto, *i.e.*, the Distribution System. However, the total offset credit received shall never exceed the total amount of CCSUD's prescribed Connection Fee (by anticipated meter size) and/or capacity reservation charge, which would otherwise be collected.

- (b) Developer shall indemnify CCSUD and hold CCSUD harmless from all of the foregoing costs.
- (c) Payment of Contribution in Aid of Construction:
 - (1) A Non-Standard Service Investigation Fee in an amount set forth in the District's Rules and Regulations, and in consultation with the CCSUD's consulting engineer and counsel, shall be paid by cashier's check payable to the CCSUD at the time of initial application for service.
 - (2) Connection Fees shall be paid at the time the Developer or its successor requests the initiation of water utility service to a residential or commercial site. Connection Fees, for at least one-half the anticipated lots, must be paid before the end of the first two-year term if the Developer wants to extend the contract another two years.
- (d) Provided, however, except for the one-year warranty provide in the Agreement, nothing herein shall be construed as obligating the Developer to maintain the Water System Modifications, Changes or Extensions subsequent to its dedication and acceptance for maintenance by CCSUD and the expiration of the warranty period.
- (e) If CCSUD has required the Water System Modification, Changes or Extensions to be oversized in anticipation of the needs of the other customers of CCSUD, CCSUD shall reimburse Developer for the additional costs of construction attributable to the oversizing, as determined by the CCSUD's consulting engineer, in three equal annual installments without interest beginning one year after dedication of the Water System Extension to CCSUD. In the alternative, the Developer may choose to credit his refund against the Connection Fees he would otherwise pay.

8. Service From the Water System Modifications, Changes or Extensions.

- (a) After proper completion and dedication of the Water System Modifications, Changes or Extensions to CCSUD, CCSUD shall provide continuous and adequate water service to the Property under the requirements of CCSUD's state-issued certificate of convenience and necessity, TCEQ regulations and all duly adopted rules and regulations of CCSUD and payment of the following:
 - (1) All standard rates, fees and charges as reflected in CCSUD's approved Rules and Regulations;
 - (2) Any applicable Connection Fee and Installation Fee adopted by CCSUD;
 - (3) Any applicable reserved service charge as reflected in the District's Rules and Regulations adopted by CCSUD.
- (b) Unless the prior approval of CCSUD is obtained, the Developer shall not:

- (1) construct or install additional water lines or facilities to service areas outside the Property;
- (2) add any additional lands to the Property for which water service is to be provided pursuant to this agreement; or
- (3) connect or serve any person or entity who, in turn, sells water service directly or indirectly to another person or entity.

9. Effect of Force Majeure.

In the event either party is rendered unable by force majeure to carry out any of its obligations under this Agreement, in whole or in part, then the obligations of that party, to the extent affected by the force majeure shall be suspended during the continuance of the inability, provided however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other party.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement or strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty.

10. Notices.

Any notice to be given hereunder by either party to the other party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to the CCSUD shall be addressed:

Crystal Clear Special Utility District

Attn: General Manager
2370 FM 1979
San Marcos, TX 78666 (830) 372-1031

Any notice mailed to Developer shall be addressed:

With copy to:

Either party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

11. Severability.

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein.

12. Entire Agreement.

This Agreement, including any exhibits attached hereto and made a part hereof, constitutes the entire agreement between the parties relative to the subject matter of this Agreement. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the parties are merged herein.

13. Amendment.

No amendment of this Agreement shall be effective unless and until it is duly approved by each party and reduced to a writing signed by the authorized representatives of the

CCSUD and the Developer, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

14. Governing Law.

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties are expressly deemed performable within the state-certificated service area of CCSUD.

15. Venue.

Venue for any civil suit arising hereunder shall be in Guadalupe County, Texas. Venue for any administrative law action arising hereunder shall be vested in the TCEQ and the appropriate courts of Travis County, Texas.

16. Successors and Assigns.

This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the parties.

17. Assignability.

The rights and obligations of the Developer hereunder may not be assigned without the prior written consent of the CCSUD. CCSUD may assign this Agreement to any other retail public utility authorized by the TCEQ to serve the Property.

18. Effective Date.

This Agreement shall be effective from and after the date of due execution by all parties.

19. Conflict.

In the event there is determined to be a conflict between the terms of this Agreement and the provisions in the CCSUD's Rules and Regulations governing the same matter, the Rules and Regulations shall prevail.

IN WITNESS WHEREOF each of the parties has caused this Agreement to be executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

CCSUD

DEVELOPER

By: _____ By: _____

Date: _____ Date: _____

**CRYSTAL CLEAR SPECIAL UTILITY DISTRICT
NON-STANDARD SERVICE AGREEMENT**

Attachment "A"
Legal Description of the "Property"

**CRYSTAL CLEAR SPECIAL UTILITY DISTRICT
NON-STANDARD SERVICE AGREEMENT**

Attachment "B"
Engineer Report

CRYSTAL CLEAR SPECIAL UTILITY DISTRICT NON-STANDARD SERVICE AGREEMENT

Attachment "C" Non-standard Service Requirements of the "Property"¹

1. Type of permanent water utility service being requested (check all applicable):

- residential
 commercial
 mixed
 industrial

2. Number of requested service connections (by anticipated meter size):

Number _____ Size/type _____

Meter Size	LUEs	Deposit	Impact Fees (Capital Recovery)	Installation Cost
5/8"	1	\$300	\$2,500	\$700
3/4"	1.5	\$450	\$3,750	\$700
1"	2.5	\$750	\$6,250	\$1,075
1.5"	5	\$1,500	\$12,500	\$1,450 + add. parts
2"	8	\$2,400	\$20,000	\$1,650 + add. parts
3"	16	\$4,800	\$40,000	TBD
4"	25	\$7,500	\$62,500	TBD
6"	50	\$15,000	\$125,000	TBD

3. Other desired domestic public water utility service needs:

4. Water volume and pressure requirements:

Gallons: Annual _____ Monthly _____ Highest Day _____

Pressure required: Low _____ Average _____ High _____

Special pressure requirements: _____

¹ Unless otherwise specified elsewhere in this Agreement, the retail public water utility service requirements set forth in this Attachment "C" shall govern all aspects the parties' obligations one to the other. Unless it is clearly and unequivocally states in this Attachment "C" that Developer is requesting additional reserved water capacities for fire flows or other purposes, CCSUD shall only be obligated to provide the service capacities for domestic potable water service, under the 30 TAC Chapter 290, Subchapter D, for the number of consuming facilities, by meter size or GPM water demand, indicated in this Attachment "C".

5. Additional reserved water capacities for fire flows or other purposes are being requested?

Yes _____ No _____

If yes, the following capacities are needed: _____

6. Is public utility easement required? yes _____ no _____

Are required easements shown on Attachment "A"? yes _____ no _____

If not, attach plat or diagraph showing all required easements.

7. Is phased development of a larger tract planned? yes _____ no _____

Is phased water utility service requested?² yes _____ no _____

If phased service, number of phases? _____

Time intervals between phases: _____

8. Date domestic potable water service requested to begin: _____

9. Is non-potable construction or landscaping water service being requested?

yes _____ no _____ If yes, date requested to begin: _____

Describe type and quantity of non-potable construction or landscaping water service being requested. _____

10. Other terms unique to this non-standard service request:

² If the property is to be developed in phases and the Developer desires the water system to be constructed in corresponding phases and such phased construction is deemed desirable and acceptable to CCSUD at its sole discretion, Developer shall be required to execute a separate Non-Standard Service Agreement for each development and construction phase. Information on all phases is being requested to assist CCSUD plan for its long-term capacity requirements. No reservations of water service capacities will be made for future phases.

Initialed acceptance of information shown on Attachment "B":

Developer _____ CCSUD _____