

SUBDIVISION SERVICE AGREEMENT

1. PARTIES. The parties to this Residential Subdivision Service Agreement (this "Agreement") are the **ST. VRAIN SANITATION DISTRICT** ("District") and _____ ("Applicant").

2. RECITALS AND PURPOSES. The Applicant owns, or is in the process of purchasing, certain real property, legally described in *Exhibit A* (the "Property"). Exhibit A is attached to this Agreement and incorporated herein by this reference. The District is a special district, which provides sanitary sewer service to its customers for which monthly service charges are made. The Applicant desires that the District provide sanitary sewer service ("Service") within the boundaries of the Property. The District desires to supply Service. The purpose of this Agreement is to set forth the terms and conditions concerning the purchase of sanitary sewer service connections and the District's providing sanitary sewer service to the Property.

3. SUBDIVISION OF THE PROPERTY. The Applicant intends to subdivide the Property. The Applicant has furnished the District with preliminary plans which describe the future total development of the Property so that prior to entering into this Agreement the District could study and consider the total development under this Agreement as it relates to future demands upon the District for service within the entire development and the effect this may have, presently and in the future, on the District's entire system and its obligations in regard thereto. The Applicant agrees to furnish a reproducible copy of the final subdivision plat (the "Final Plat", or collectively, the "Final Plats") for each subdivision of the Property ("Subdivision") to the District for its prompt review and approval before the Final Plat is submitted to the Weld County Board of County Commissioners. After the Final Plat has been approved by the District, any change or alteration in the area, size, shape, density, usages, requirements, number of service connections or timing of development of a Subdivision that may affect the issuance of taps pursuant to this Agreement shall first require the advance written consent of the District. For purposes of this paragraph, the term "approval" shall only extend to the District's review of the Applicant's proposed sanitary sewer infrastructure and other utility-related issues within the Property, and such term shall not include any land-use issues. The District's approval shall not be unreasonably withheld.

4. CONDITIONAL COMMITMENT TO SELL/PURCHASE SANITARY SEWER SERVICE

4.1 Applicant hereby applies for _____ single-family residential equivalent sanitary service connections ("Connections") to the District's sanitary sewer system for service within the Property. Subject to the terms and conditions stated in this Agreement, the District hereby conditionally commits to sell, and the Applicant hereby conditionally commits to purchase, such total number of taps at the then-current plant investment fee per connection, and other applicable fees and charges pursuant to applicable District by-laws, rules and regulations, which may be in force from time to time (the "District's Rules and Regulations") for use solely within the boundaries of the Property, upon the terms and conditions set forth in this Agreement.

4.2 The Applicant acknowledges and agrees that the District's conditional commitment is subject to the availability of the Connections at the time the Applicant wishes to purchase such conditionally-committed Connections. Purchase of the conditionally-committed Connections may only be made by paying in full the total amount of the plant investment fee and other applicable fees and charges for each Connection purchased, up to the maximum number specified above.

4.3 The District makes no warranties, promises or representations that such conditionally-committed Connections will be available for purchase or reservation due to limitations on its treatment capacity as determined by its plant capacity, collection system capacity, discharge permit, and any governmental regulations or limitations. The Applicant acknowledges and agrees that it is solely responsible for inquiring as to the availability of Connections, and that the District is under no affirmative obligation to inform the Applicant of any other sales or reservations, commitments, or any other events, which may limit the District's ability to sell the conditionally-committed Connections. Applicant assumes all risks of unavailability by not purchasing said conditionally-committed Connections.

4.4 The District's obligation to sell such conditionally committed Connections is expressly conditioned upon the entry of an order of inclusion by the District's Board of Directors upon the submittal by the Application of a petition for inclusion and the fulfillment of all conditions of inclusion.

5. TERM. This Agreement shall continue in full force and effect for a period of two (2) years after the date of execution unless extended by mutual agreement by the parties in writing.

6. ACTIVATION OF TAP. All purchased Connections (taps) shall be deemed activated and subject to the District's minimum service charges pursuant to the District's Rules and Regulations upon payment to the District of plant investment fees and all other fees due for connection to District facilities.

7. DESIGN SPECIFICATIONS AND CONSTRUCTION. It is agreed, as a condition precedent to Service, that all sewer lines and appurtenant facilities required to provide Service within the boundaries of the Property ("Sewer Lines") and all necessary trunk lines, outfall lines and connecting lines and appurtenant facilities within the Property that are necessary to connect with the lines of the District as presently planned, engineered or installed ("On-site Connecting Lines"), shall be installed at the Applicant's sole cost and expense and shall be in designed and constructed in accordance with design and specifications as fixed by the District. The specific design of such Sewer Lines and On-Site Connecting Lines shall be submitted for District review and approval prior to construction. The Applicant agrees that the actual installation and construction of the Lines and the On-Site Connecting Lines shall be subject to the general, as opposed to specific, supervision, inspection and approval by the District. The Applicant further agrees that the installation and construction of the off-site lines and facilities, including outfall lines, connecting lines, and trunk lines, will be constructed by the District utilizing funds provided to the District by the Applicant. All related costs of engineering study, review, inspection and approval (including the District's cost and expenses of obtaining necessary easements if public rights-of-way or utility easements are not available or, if available, not feasible to utilize) for both

on-site and off-site construction shall be at the sole cost and expense of, and paid by, the Applicant. The Applicant further agrees to give the District, through the District's Engineer, fourteen days advance notice prior to commencement of construction.

8. EASEMENTS. Applicant shall furnish, at Applicant's expense, any and all applicable easements and rights-of-way within the Property (if not dedicated to the public use on the recorded plat), and all consents, permits, licenses and other agreements necessary to effectuate the intent of this Agreement.

9. TRANSFER AND CONVEYENCE OF LINES.

9.1 Prior to conveyance, Applicant shall jet-clean, pressure and vacuum test all lines. Upon completion, approval and acceptance of the Sewer Lines and the On-Site Connecting Lines by the District, as evidenced by the issuance of the District's Certificate of Acceptance, this Agreement shall operate as a conveyance, transfer and assignment by the Applicant of all Applicant's interest and ownership in the Sewer Lines, the On-Site Connecting Lines, and related appurtenant facilities to the District, free and clear of all liens and encumbrances, and shall warrant that the work has been done in accordance with the laws of the State of Colorado, and all other governmental subdivisions, agencies and units and in accordance with the design standards and requirements of the District.

9.2 Applicant shall guarantee the Sewer Lines and the On-Site Connecting Lines, as installed, against faulty workmanship and materials to the District for a period of two (2) years and shall, during said period, pay any and all costs and expenses of repair or replacement of the Sewer Lines and the Connecting Lines. Pursuant to District regulations, Applicant shall post adequate security in a form acceptable to the District (e.g., bond, escrowed funds, or letter of credit, etc.) to insure the payment of the costs and expenses of repair or replacement during such two year period. The balance of the security will be released or returned to the Applicant at the expiration of the two year period. If the above conditions are not met, the bonding company will be notified and the warranty period and bond will be extended until all conditions are met.

9.3 Upon completion, approval, acceptance, conveyance and transfer of the Sewer Lines and the On-Site Connecting Lines to the District, the District shall assume all responsibility thereafter, and all costs and expenses for operation and maintenance, except as to the above two (2)-year guarantee. The completion of the construction, inspection, approval and acceptance by the District, the transfer of the Sewer Lines and the On-Site Connecting Lines by the Applicant to the District, and the payment of all construction costs and expenses required to be paid by the Applicant are conditions precedent to the obligation of the District to furnish and provide Service.

10. EXTENDED AND OVERSIZED LINES.

10.1 Applicant shall be required to pay for installation of off-site trunk line extensions to connect Applicant's sewer infrastructure to District facilities. District agrees to execute a Line Extension Agreement with the Applicant and to reimburse the Applicant for the cost of such trunk line extension according to the terms of the Line Extension Agreement. District further agrees to reimburse the Applicant the Line Extension fee's collected pursuant to the Line Extension Agreement for a period of fifteen (15) years from and after the date of that Line Extension Agreement, but not thereafter, to pay Applicant for its costs of such extension or oversizing but, in no event, more than the total cost of such extension or oversizing.

10.2 If the District required that trunk line and facilities be oversized to permit the use of these lines by the District to serve additional lands and property in addition to the property of the Applicant, District agrees to reimburse the cost of such extending or oversizing at the then current rate of oversizing reimbursement as stated in the District's Rules and Regulations.

10.3 In the event that no off-site trunk line extensions are required, Applicant may be required to pay a line reimbursement fee as a condition of connecting the property to the existing trunk line. Such fees may be payable in conjunction with the payment of the individual taps. However, if the property was not included in an applicable trunk line extension agreement, the Applicant shall pay all such line reimbursement fees for all taps within that filing of the subdivision on the property at the time of first connection as a condition of connecting to the line.

11. DISTRICT REGULATIONS. All Service provided under this Agreement shall be subject to the District's monthly service charges and to the District's Rules and Regulations.

12. GOVERNMENTAL REGULATIONS. Any provisions of this Agreement to the contrary notwithstanding, the obligation of the District to furnish Service under this Agreement is limited by and subject to all orders, requirements and limitations which may be imposed by federal, state, county or any governmental or regulatory body or agency having jurisdiction and control over the District and/or the operation of its sanitary sewer system and treatment facilities, or discharge permit for discharge into state waters.

13. DOCUMENTS TO BE FURNISHED. Applicant agrees to furnish District the following:

13.1 Upon execution of this Agreement, or at such time or times as may be requested by District, a topographical survey of the Property; and

13.2 When approved by the appropriate governmental boards, commissions, or agencies, the Final Recorded Plat(s), and Recorded Address Plat together with any requirements or conditions of approval fixed by such governmental entities, together with evidence of the Applicant's compliance or plan for compliance; and

13.3 Upon completion, approval, acceptance, conveyance and transfer of the Sewer Lines and the On-Site Connecting Lines to the District:

13.3.1 "As-built" mylar maps (one full-sized and one half-sized copy 11x17), certified by the Applicant's engineer and depicting all lines, manholes, etc. constructed, installed, and transferred pursuant to Paragraph 9, above.

13.3.2 "As-built" AutoCad file on CD and transferred pursuant to Paragraph 9 above.

13.3.3 X, Y and Z coordinates of manholes using NAD 1983 State Plane Colorado North FIPS 0501 Feet

13.3.4 The bid tabulation of the installation costs for sewer line elements including pipe size, lineal feet, and #of manholes.

13.3.5 Address Plat

13.3.6 Final Recorded Plat on Mylar

13.3.7 2 year warranty surety instrument or letter of credit in the amount of 15% of sewer line construction cost or \$5000 whichever is greater.

13.4 In the event the initial area to be served under this Agreement is not the entire project of Applicant as hereinabove described, Applicant shall furnish preliminary plats and plans as developed by the Applicant with reference to the future total development of the entire property so that prior to issuance of taps and initial installation of lines and facilities the District may study and consider the total development under this Agreement as it may relate to future demands upon the District for service within the entire development and the effect this may have, presently and in the future, on the District's entire system and its obligations in regard thereto. It is understood and agreed that a request for information as to future plans and developments of the Applicant and the consideration of such plans by the District in connection with its obligation to service Applicant's above described land under this Agreement shall in no wise be construed as an agreement or obligation of District to serve such other lands or areas proposed by the Applicant for such future development. All information required to be furnished to District by Applicant shall be provided at Applicant's expense.

14. DELAYS. Any delays in, or failure of, performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God and nature, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, restrictions or limitations contained in any initiative approved by the voters, shortages of labor materials, or other causes, similar or dissimilar, which are beyond the control of such party, including any orders, requirements or limitations described in paragraph 13 above.

15. TIME OF ESSENCE. Time is expressly stated to be the essence of this Agreement and any failure to perform the covenants and agreements herein agreed to be performed strictly at the times designated shall operate as an immediate termination of this Agreement.

16. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

17. ADDITIONAL DOCUMENTS OR ACTION. The parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

18. INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

19. ALTERNATIVE DISPUTE RESOLUTION. In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbitrator Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the District Court for Weld County.

20. ATTORNEYS' FEES. If any party breaches this Agreement, the breaching party shall pay all of the non-breaching party's reasonable attorneys' fees and costs in enforcing this Agreement whether or not legal proceedings are instituted.

21. GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

22. NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

23. BINDING EFFECT; NOTICE OF ASSIGNMENT. This Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective legal representatives, successors, and assigns as owners of the land described in Exhibit A. Any deposits, if any, which are made pursuant to the District's reservation of connection policy and approved agreements shall be

transferred to the credit of Applicant's assignee. Applicant shall give written notice to the District of such assignment and shall provide the assignee with a copy of this Agreement.

24. GOVERNMENTAL IMMUNITY. Nothing in this Agreement is intended, or shall be construed as, a waiver of any immunities provided to the District by statute or common law, including without limitation the Colorado Governmental Immunity Act, §24-10-101, et. seq., C.R.S.

DATED _____.

ST. VRAIN SANITATION DISTRICT

By _____
President
11307 Business Park Circle
Longmont, CO 80504

ATTESTED:

District Manager

Approved As To Form:

District Legal Counsel

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ of _____ 200____,
by _____ as President, and _____, as Manager of St. Vrain
Sanitation District.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

