

Recording Requested By

County of Tulare

When Recorded Mail To:

**County of Tulare
Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277-9394**

(Space Above This Line for Recorder's Use)

EXTRA-TERRITORIAL SEWER SERVICE AGREEMENT

THIS EXTRA-TERRITORIAL SEWER SERVICE AGREEMENT ("Agreement") is made and entered into this 7th day of March, 2019, by and between Selma-Kingsburg- Fowler County Sanitation District ("DISTRICT"), the County of Tulare, ("County"), Presidio JJR Summerlin 123, LLC, a Delaware Limited Liability Company ("Owner"), and Steven Cecil Hash and Elizabeth McNalley Shafer, Trustees of the Hash/Shafer 2016 Revocable Trust dated March 24, 2016 ("Owner").

RECITALS

A. Owner owns certain real property located in Tulare County, California and comprising approximately 47.21+/- acres and having an Assessor's Parcel Number 028-140-012, 013, and 022, and commonly known as Andersen Village Tract Map, Kingsburg, California and more particularly described in Exhibit "A" which is attached hereto and made a part hereof ("Owner's Property"). Located upon Owner's Property is a residential housing tract. Owner's Property is located approximately 1,200 feet from DISTRICT's limit boundary.

B. DISTRICT has entered into an agreement with Tulare County to provide municipal services for the residential tract. Owner has requested that it receive DISTRICT service to Owner's Property. DISTRICT is willing to provide sewer service to Owner's Property so long as Owner installs all infrastructure needed to provide DISTRICT sewer service to the Owner's Property and Owner agrees to install said infrastructure in accordance with the DISTRICT'S construction standards, policies, rules and regulations and the provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto, agree as follows:

1. **Connection to DISTRICT System.** Owners jointly and severally represent and warrant to DISTRICT and County that:

Upon Owner's full and complete performance of all of its obligations and responsibilities under this Agreement, DISTRICT agrees to provide Owner's Property with sewerage from the DISTRICT's sewer system. DISTRICT's obligation to provide Owner's Property with sewer from the DISTRICT's system is conditioned upon the County agreeing with DISTRICT and the Owner in obtaining the consent of all applicable governmental agencies including, without limitation, approval of this Agreement by Tulare LAFCo and obtaining all consents from Tulare County, including, without limitation obtaining the necessary encroachment permits from Tulare County to install a sewer pipeline and related fixtures within Tulare County Right of Way into Owner's Property.

The DISTRICT does not guarantee that the extension of the sewer line to the Owners property will yield any specific volume of sewer or provide any specific sewer pressure under static or demand scenarios. The Owner assumes full responsibility to determine the adequacy of the sewer line extension for the purposes for which it is proposed and holds harmless, defends and indemnifies the DISTRICT for any damages that occur due to insufficient sewer flow or pressure from the DISTRICT's system.

2. **Construction and Installation of Sewer Service to Owners' Property.** Owner shall, at his sole cost and expense, construct and install the sewer pipeline and related infrastructure necessary to transport sewer from the DISTRICT's municipal sewer system to Owner's Property ("New Sewer System"). Owner shall construct and install the New Sewer System only in accordance with plans and specifications approved by the DISTRICT and only in the locations identified on Exhibit "B" which is attached hereto and made a part hereof. Owner shall complete construction and installation of the improvements on or before December, 31, 2019 ("Completion Date"). Should Owner fail to complete the construction and installation of the New Sewer System on or before the Completion Date, DISTRICT shall have the right, but not the obligation, to complete the construction and installation of the New Sewer System. Should DISTRICT elect to complete the construction and installation of the New Sewer System, Owner shall reimburse DISTRICT and all fees, costs and expenses incurred by DISTRICT to complete the construction and installation of the New Sewer System within ten (10) days of the date after invoice from DISTRICT.

Owner shall recognize the City of Kingsburg DISTRICT Engineer and Kingsburg Public Works Department as authorities in regard to design and construction inspection of the sewer infrastructure and shall construct the line to the DISTRICT's satisfaction, including correcting any and all deficiencies identified by DISTRICT staff. This shall not relieve the Owner for the obligations assumed under the provision of the required County Encroachment Permit.

3. **Maintenance and Repair of New Sewer System.** Until the New System is dedicated to DISTRICT, Owner shall, at its sole cost and expense, maintain, repair and replace the New Sewer System for a period of 12 months after the improvements are deemed complete by the DISTRICT Engineer. Owner's obligation to maintain, repair and replace the New Sewer System shall include, without limitation, any maintenance, repair, replacement or modification of the New Sewer System that may be required by the DISTRICT. Should Owner fail to maintain, repair and replace the New Sewer System as required by this Paragraph 3, DISTRICT shall

have the right, but not the obligation, to maintain, repair and replace the New Sewer System. Should the DISTRICT elect to maintain, repair and replace the New Sewer System, Owner shall reimburse DISTRICT and all fees, costs and expenses incurred by DISTRICT to maintain, repair and replace the New Sewer System within ten (10) days after the date of invoice from DISTRICT.

4. **Continuing Obligations and Responsibilities of Owners.** Owner agrees to pay to DISTRICT and the County any and all fees for service supplied by DISTRICT to Owner's Property. Owner agrees to maintain his DISTRICT account with DISTRICT in a current status. Owner acknowledges and agrees that should his sewer service account with the DISTRICT become 60 days delinquent, DISTRICT shall have the right, at the DISTRICT's sole option, to discontinue sewer service to Owner's Property.

5. **Consent to Annexation.** In further consideration of the DISTRICT's agreement to provide sewer from the DISTRICT's system to Owner's Property in accordance with the provisions of this Agreement, Owner agrees: (i) not to oppose or protest, in any way, the annexation of Owner's Property to the DISTRICT and to pay Owner's share of all applicable fees and charges DISTRICT or the County may require at the time of annexation of Owner's Property to the DISTRICT; and (ii) after annexation of Owner's Property into DISTRICT upon request by the County and at no cost to the County, dedicate to the DISTRICT the entire New Sewer System and any right of way along the frontage of Owner's Property where the DISTRICT's System is located and to the extent required by the applicable City / County street plans and improvement standards existing at the time of annexation of Owner's Property into the DISTRICT.

6. **Covenants Running with the Land.** Owner acknowledges and agrees that all of Owner's covenants, agreements, promises, representations and warranties as set forth in this Agreement are covenants running with Owner's Property as defined in the applicable provisions of Sections 1457, et seq. of the California Civil Code. Owner's covenants, agreements, promises, representations and warranties as contained in this Agreement, shall run with Owner's Property and shall be binding on Owner and Owner's successors and assigns and all parties and persons claiming under them.

7. **Successors and Assigns.** The covenants and agreements contained in this Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties hereto. Owner may not assign its rights and/or obligations under this Agreement without the prior written consent of DISTRICT, which consent shall not be unreasonably withheld. Any such consent by the DISTRICT shall not, in any way, relieve Owner of its obligations and responsibilities under this Agreement.

8. **Attorneys' Fees.** If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other reasonable relief to which he may be entitled. With respect to any suit, action or proceeding arising out of or related to this Agreement, or the documentation related hereto, the parties hereby submit to the jurisdiction and venue of the Superior Court in the County of Fresno, State of California for any proceeding arising hereunder.

The parties hereto understand and agree that Owner's Property and the covenants, agreements, promises, representations and warranties of Owner which run with the land are unique and for that reason, among others, County will be irreparably harmed in the event that this Agreement and Owner's obligations under this Agreement are not specifically enforced and damages will be an inadequate remedy to DISTRICT. Accordingly, in the event of any breach or default of any term or condition of this Agreement by Owner, DISTRICT shall have, in addition to any other remedies or claim for damages for such breach or default, and in addition to and without prejudice to any other rights or remedies available at law or in equity, the right to demand and to receive specific performance of all of Owner's obligations and responsibilities under this Agreement.

9. **Sole and Only Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the matters set forth herein and contains all of the covenants and agreements between the parties regarding said matters. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or in writing, have been made by any party or anyone acting on behalf of any party which are not embodied in this Agreement and no other agreement, statement or promise shall be valid or binding.

10. **Invalidity.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

11. **Amendment.** No change, amendment or modification of this Agreement shall be valid unless the same be in writing and signed by the parties hereto.

12. **Governing Law.** This Agreement shall be construed and governed pursuant to the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the day and in the year first set forth above.

"County"

THE County of Tulare
a State of California County

By: _____

Kuyler Crocker, Chairman
Board of Supervisors

"DISTRICT"

A State of California Sanitation District

By: _____

Ben Muñoz, Jr.
General Manager

"OWNER"

Presidio JJR Summerlin 123, LLC, a Delaware
Limited Liability Company

BY: JJR Management Services, Inc., a California
Corporation

Its: Operating Manager



Joseph A. Leal, President

"OWNER"

The Hash/Shafer 2016 Revocable Trust

Steven Cecil Hash, Trustee

Elizabeth McNalley Shafer, Trustee

EXHIBIT "A"

PARCEL A

A portion of Lot 3 of the Kingsburg Colony Lots (Tulare County) recorded in Volume 5 of Maps, at Page 312, of Tulare County Records, located in the Northeast quarter of Section 26, Township 16 South, Range 22 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, described as follows;

Beginning at the Southeast corner of said Lot 3, said point also being the East quarter corner of said Section 26;

Thence North 89°22'32" West, along the South line of said Lot 3, a distance of 1324.38 feet, to the Southwest corner of said Lot 3,

Thence North 00°29'01" East, along the West line of said Lot 3, a distance of 20.00 feet, to a line parallel with and 20.00 feet North of said South line;

Thence South 89°22'32" East, along said parallel line, 208.71 feet to a line parallel with and 208.71 feet East of said West line;

Thence North 00°29'01" East, along said parallel line 208.71 feet, to a line parallel with said South line;

Thence South 89°22'32" East, along said parallel line 11.31 feet;

Thence South 44°22'32" East, 29.29 feet, to a line parallel with and 208.00 feet North of said South line;

Thence South 89°22'32" East, along said parallel line 140.27 feet;

Thence South 67°26'54" East, 74.98 feet, to a line parallel with and 180.00 feet North of said South line;

Thence South 89°22'32" East, along said parallel line 874.00 feet, to the East line of said Lot 3 and the East line of said Northeast quarter;

Thence South 00°30'13 West, along said East lines, 180.00 feet to the Point of Beginning.

PARCEL B

That portion of Lot 4, in the unincorporated areas of Fresno and Tulare Counties, State of California according to the following maps: Kingsburg Colony Lots (Fresno County), recorded May 21, 1889, in Book 4, Page 33 of Maps, in the office of the County Recorder of Fresno County; Kingsburg Colony Lots (Tulare County), recorded March 18, 1918 in Book 8, Page 33 of Maps, in the office of the County recorder of Fresno County; and Plat of Kingsburg Colony Lots (Tulare County), recorded June 7, 1889, in Book 5, Page 31 of Maps, in the County Recorder of Tulare County, lying South of a line that begins at a point in the East line of Section 26, Township 16 South, Range 22 East, Mount Diablo Base and Meridian, distant 660.40 feet Southerly of the Northeast corner of Section 26 and bears Westerly 662.25 feet, more or less, to terminate at a point in the West line of said Lot 4, distant 660.16 feet Southerly of the North line of said Section 26.

TOGETHER WITH, that portion of Lots 3 and 17 of Kingsburg Colony Lots (Fresno County), recorded May 21, 1889, in Book 4, Page 33 of Maps, in the office of the County Recorder of Fresno County; Kingsburg Colony Lots (Tulare County), recorded March 18, 1918 in Book 8, Page 33 of Maps, in the office of the County recorder of Fresno County; and Plat of Kingsburg Colony Lots (Tulare County), recorded June 7,

1889, in Book 5, Page 31 of Maps, in the County Recorder of Tulare County of the Northeast quarter of Section 26, Township 16 South, Range 22 East, Mount Diablo Base and Meridian, in the Counties of Fresno and Tulare, State of California, described as follows;

Commencing at the Southeast corner of said Lot 3, said point also being the East quarter corner of said Section 26;

Thence North $00^{\circ}30'13''$ East, along the East line of said Lot 3, a distance of 180.00 feet to a line parallel with and 180.00 feet North of the South line of said Lot 3, and the TRUE POINT OF BEGINNING;

Thence North $89^{\circ}22'32''$ West, along said parallel line 339.00 feet, to a line parallel with and 339.00 feet West of the East line of said East line;

Thence North $00^{\circ}30'13''$ East, along said parallel line, 119.95 feet;

Thence South $89^{\circ}29'47''$ East, 2.50 feet, to a line parallel with and 336.50 feet West of the East line of said East line;

Thence North $00^{\circ}30'13''$ East, along said parallel line, 174.00 feet;

Thence South $89^{\circ}29'47''$ East, 2.00 feet, to a line parallel with and 334.50 feet West of the East line of said East line;

Thence North $00^{\circ}30'13''$ East, along said parallel line, 120.00 feet;

Thence South $89^{\circ}29'47''$ East, 38.00 feet, to a line parallel with and 296.50 feet West of the East line of said East line;

Thence North $00^{\circ}30'13''$ East, along said parallel line, 174.00 feet;

Thence North $89^{\circ}29'47''$ West, 535.53 feet;

Thence North $66^{\circ}44'40''$ West, 118.70 feet;

Thence North $00^{\circ}29'01''$ East, 198.61 feet;

Thence southeasterly 21.06 feet, along a non-tangent curve, concave to the Southwest, with a radius of 300.00 feet, a central angle of $04^{\circ}01'19''$, and a beginning radial which bears North $13^{\circ}18'16''$ East;

Thence North $17^{\circ}19'35''$ East, 54.00 feet;

Thence North $00^{\circ}29'01''$ East, 80.19 feet;

Thence North $89^{\circ}30'59''$ West, 342.30 feet, to the West line of said Lot 17 of Kingsburg Colony Lots (Fresno County);

Thence North $00^{\circ}29'01''$ East, along said West line, 183.19 feet, to the Northwest corner of said Lot 17;

Thence South $89^{\circ}26'14''$ East, along the North line of said Lot 17, a distance of 1324.84 feet, to the Northeast corner of said Lot 17;

Thence South $00^{\circ}30'13''$ West, along the East line of said Lots 3 and 17, a distance of 1141.35 feet, to the TRUE POINT OF BEGINNING;

PARCEL C

A portion of Lots 3 and 17 of Kingsburg Colony Lots (Fresno County), recorded May 21, 1889, in Book 4, Page 33 of Maps, in the office of the County Recorder of Fresno County; Kingsburg Colony Lots (Tulare County), recorded March 18, 1918 in Book 8, Page 33 of Maps, in the office of the County recorder of Fresno County; and Plat of Kingsburg Colony Lots (Tulare County), recorded June 7, 1889, in Book 5, Page 31 of Maps, in the County Recorder of Tulare County of the Northeast quarter of Section 26,

Township 16 South, Range 22 East, Mount Diablo Base and Meridian, in the Counties of Fresno and Tulare, State of California, described as follows;

Commencing at the Southeast corner of said Lot 3, said point also being the East quarter corner of said Section 26;

Thence North 00°30'13" East, along the East line of said Lot 3, a distance of 180.00 feet to a line parallel with and 180.00 feet North of the South line of said Lot 3;

Thence North 89°22'32" West, along said parallel line 339.00 feet, to a line parallel with and 339.00 feet West of the East line of said East line, and the TRUE POINT OF BEGINNING;

Thence North 00°30'13" East, along said parallel line, 119.95 feet;

Thence South 89°29'47" East, 2.50 feet, to a line parallel with and 336.50 feet West of the East line of said East line;

Thence North 00°30'13" East, along said parallel line, 174.00 feet;

Thence South 89°29'47" East, 2.00 feet, to a line parallel with and 334.50 feet West of the East line of said East line;

Thence North 00°30'13" East, along said parallel line, 120.00 feet;

Thence South 89°29'47" East, 38.00 feet, to a line parallel with and 296.50 feet West of the East line of said East line;

Thence North 00°30'13" East, along said parallel line, 174.00 feet;

Thence North 89°29'47" West, 535.53 feet;

Thence North 66°44'40" West, 118.70 feet;

Thence North 00°29'01" East, 198.61 feet;

Thence southeasterly 21.06 feet, along a non-tangent curve, concave to the Southwest, with a radius of 300.00 feet, a central angle of 04°01'19", and a beginning radial which bears North 13°18'16" East;

Thence North 17°19'35" East, 54.00 feet;

Thence North 00°29'01" East, 80.19 feet;

Thence North 89°30'59" West, 342.30 feet, to the West line of said Lot 17 of Kingsburg Colony Lots (Fresno County);

Thence South 00°29'01" West, along the West line of said Lot 17 and Lot 3, a distance of 908.02 feet, to a line parallel with the South line of said Lot 3;

Thence South 89°22'32" East, along said parallel line 220.02 feet;

Thence South 44°22'32" East, 29.29 feet, to a line parallel with and 208.00 feet North of said South line;

Thence South 89°22'32" East, along said parallel line 140.27 feet;

Thence South 67°26'54" East, 74.98 feet, to a line parallel with and 180.00 feet North of said South line;

Thence South 89°22'32" East, along said parallel line 535.00 feet, to the TRUE POINT OF BEGINNING;



ACKNOWLEDGMENT

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

State of California
County of TULARE)

On MARCH 7, 2019 before me, J. STURGEON, NOTARY PUBLIC
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature 

(Seal)

