

**APPLICATION AND AGREEMENT FOR
EXTENSION OF WATER AND/OR WASTEWATER MAINS**

THIS APPLICATION AND AGREEMENT (“Agreement”) is made and entered into in quadruplicate original between _____
(hereinafter referred to as “Applicant”), whose address is _____

and **WIDEFIELD WATER AND SANITATION DISTRICT, a quasi-municipal corporation of the State of Colorado** (hereinafter referred to as “District”), whose address is 8495 Fontaine Blvd, Colorado Springs, Colorado 80925, and whose telephone number is (719) 390-7111.

WITNESSETH:

WHEREAS, Applicant desires to install water and/or wastewater mains identified and known by the parties as the _____, and to have those mains and related appurtenances become a part of the District’s public water system; and

WHEREAS, Construction of Water and/or Wastewater Mains or extensions thereof which are to be owned and operated by the District shall conform to the provisions of Section 6 of the District Rules and Regulations. At the option of the Developer, construction may be performed either by the District, with funding provided by the Developer, or directly by the Developer, in accordance with the provisions of Section 6 of the Districts Rules and Regulations.

WHEREAS, Applicant and District desire to execute an agreement setting forth the terms and conditions pursuant to which such Water and/or Wastewater Mains and related appurtenances will be conditionally accepted by the District and allowed to connect to the District’s public water system and, if finally accepted by the District, shall become a part of the District’s public water system for all purposes including maintenance.

NOW, THEREFORE, the parties hereto agree as follows:

1. Developer-Built Facilities: Dedication To and Accepted by the District

In cases where the Developer desires to install facilities by private contract for dedication to and acceptance by the District, the following shall apply

1.1 Application for Approval

No Person shall construct a Water and/or Wastewater Main or extension thereof within the Service Area of the District without first having written approval of a formal

application to the District and having complied with the Rules and Regulations, policies and resolutions of the District.

1.2 Responsibility for Providing Facilities

The cost for the Water and/or Wastewater Main and appurtenances thereto, including but not limited to, design, material and construction costs, shall be the sole responsibility of the Developer. Any Water and/or Wastewater Mains including all sites, rights-of-way and easements required to serve development of the property, as determined by the District, shall be provided by the Developer at his or her expense.

1.3 Plan Submittal

Plans for all Water Mains and/or Wastewater Mains within the Service Area of the District or that contemplate connection to the District's facilities shall be submitted to the District Engineer together with any other pertinent documents. All of the Water and/or Wastewater Mains shall be designed and installed so as to provide an acceptable level of service to the specific parcel as well as to all existing and potential Customers of the District. All Water and/or Wastewater Mains shall be constructed according to the District's standards and specifications. All costs of plan review shall be an expense of the applicant.

2. Construction of Facilities

After the District has approved the proposed engineering layout or design, the Developer shall install the facility extension by private contract upon approval of the plans, specifications and contractor by the District field inspection and approval of actual construction.

3. Easements

In the event the Water and/or Wastewater mains are to be located within an easement to be granted to the District, Developer shall comply with the following:

3.1 Developer shall submit to the District Engineer for review and approval the legal description and a drawing clearly depicting the interest proposed to be granted to the District.

3.2 Developer shall deliver to the District, or, at the discretion of the District the District shall cause to be prepared, a commitment for title insurance, prepared by a title company approved by the District, on the proposed easement interest, subject to the following requirements:

3.2.1 The title commitment shall be effective within 30 days of the submittal date;

3.2.2 The title commitment shall show the proposed insured as “Widefield Water and Sanitation District, a quasi-municipal corporation and political subdivision of the State of Colorado”; and

3.2.3 The title commitment shall reflect the amount of insurance on the proposed easement interest to be a minimum of \$5,000.

3.3 The proposed easement shall be free and clear of all encumbrances, except such encumbrances agreeable to the District. Any deeds of trust or mortgages shall be subordinated to the District’s easement interest by a subordination agreement duly authorized and signed by the deed of trust and/or mortgage holder.

3.4 All costs incurred in providing the title commitment, easement and subordination agreement(s) to the District shall be borne by the Developer. Such costs include, but are not limited to , the costs of the preparation of the title commitment, the title insurance policy insuring the District’s easement interest, recording fees, legal fees involve in the review of the title work and legal fees for document preparation in connection with the granting of the easements; including cost of condemnation if necessary.

4. Subordination Agreements

Upon receipt of the title commitment, the District shall prepare and provide to Developer for execution an easement agreement in a form acceptable to the District for the conveyance of the proposed easement to the District from the Developer, and accompanying subordination agreements acceptable to the District, the District may request an update of the title commitment from the title company.

5. Right of Inspection

During the construction of facilities to be dedicated to or otherwise connected to District facilities, the District Engineer or other District Representative shall have a continuing and ongoing right of inspection and approval.

6. Preliminary Inspection

Following completion of the Developer’s construction activities, and upon payment of all fees and charges, the District Engineer shall conduct a preliminary inspection and find satisfactory, certify the line or other facility as conditionally acceptable. The Developer or Contractor shall be given notice of any deficiencies in the construction that require correction prior to the final acceptance of the facilities being constructed. Before preliminary approval is granted, Developer is to have wastewater mains video taped and the tape turned over the the District for review and approval.

7. Warranty

The Developer shall provide an executed warranty for the benefit of the District for a period of not less than 24 months form the date of the conditional acceptance or until all deficiencies have been corrected to the satisfaction of the District, whichever date is later, in a form substantially similar to the following language:

Warranty

(“Developer”) for itself, its successors and assigns, hereby warrants that for a period of two years or such additional time as may be required to correct all deficiencies to the satisfaction of the District beginning on _____ (“Warranty Period”) the facilities describe on Exhibit A (“Facilities”), attached hereto, shall be free from defects in materials or workmanship and hereby agrees that during the Warranty Period, Developer, at its sole cost, shall repair or cause to be repaired any defects in the Facilities required by or resulting from, (a) defects in workmanship or materials, (b) the construction of streets or utilities within the area, or failure to follow the standards for construction as adopted by the District from time to time (“Defects”). Developer, for itself, its successors and assigns, further warrants that if any of the Facilities are located within any streets, and at the end of the Warranty Period the construction, installation and paving of these streets, including installation of all curbing, gutters, drains and other street improvements, has not been completed then, as to the repair of valve boxes and manholes, the Warranty Period shall be extended until the date that such street construction has been completed.

During the Warranty Period the District shall be responsible for notifying Developer of any Defects and Developer shall repair or cause to be repaired any such Defects within 48 hours after receipt of the District’s notification. In the event Developer fails to make such repairs within such 48 hour period or, if such repairs cannot reasonably be accomplished within such 48 hour period and Developer has not begun diligent efforts to make such repairs within such 48 hour period, the District may, at its option, proceed to repair or cause the repair of the Defects at Developer’s cost and expense. In the event of emergency repairs which, in the opinion of the District, must be made immediately in order to maintain a reasonable level of water or sanitary sewer service the District may make such emergency repairs without prior notice to Developer and at Developer’s cost and expense, but the District shall give Developer notice thereof as soon as reasonably possible. If the District deems it necessary to flush Water Mains to maintain water quality control in a portion of the platted area in which any of the streets have not been constructed the District may flush the lines using a construction meter and charge the Developer for the water used and personnel costs associated to the flushing of the lines. In addition, the District may limit how large of a distribution system the Developer may construct prior to building homes or buildings that become active water accounts and begin using water

8. Warranty Bond

Prior to conditional acceptance of Water and/or Wastewater mains or other District facilities, the District shall make a determination whether the Developer will be required to provide to the District a warranty bond as security for any corrections or maintenance required on said facilities, to be executed in the District's favor in the minimum amount of ten percent (10%) of all construction costs, effective upon commencement of conditional acceptance. The District, in its sole discretion, shall make such determination based upon the following criteria:

8.1 Total cost of the facilities (projects under \$1 million are presumed to not require a warranty bond unless the District determines that additional security is required based upon evaluation of the criteria listed below);

8.2 Complexity of the project, including road crossings, ditch or drainage crossings, or other non-standard construction methods, means, or delivery;

8.3 Developer's history of successful construction and conveyance of Water and/or Wastewater Mains or other District facilities without or with successful resolution of any warrant issues (including cumulative total cost facilities previously constructed and conveyed by Developer);

8.4 Developer's expected future development within the District's service area (for example, if the current project is Developer's only or last remaining project, as warranty bond requirement is more likely to occur due to the District's decreased ability to recover or enforce a contractual warranty directly against Developer); and

8.5 Developer's general contractor or contractor(s) expected to construct the Water and/or Wastewater Mains or other District facilities and said contractor's history of successful completion and construction of District facilities.

9. Certification of Cost

Prior to conditional acceptance of Water and/or Wastewater Mains or other District facilities, the Developer shall provide the District with a certification of cost in a form satisfactory to the District to establish the cost of the facilities.

10. As-Builts

Prior to conditional acceptance of Water and/or Wastewater Mains, or other Developer built facilities, the Developer shall provide the District with "as-builts" or equivalent executed by a licensed professional engineer, certifying the accurate size and location of the Public Infrastructure, together with supporting maps and other documentation, in the form, format and detail required by the District.

11. Conditional Acceptance

Upon recommendation by the District Engineer for conditional acceptance of the Water and/or Wastewater Mains or other Developer-built District facilities, and upon provision to the District of all appropriate easements for the maintenance and operation of such facilities, payment of all fees and charges due hereunder, completion of appropriate bill of sale dated subsequent to the expiration of the 24 month warranty period, and compliance with any other applicable requirements contained herein, the District shall conditionally accept the facilities.

12. Final Inspection

Following expiration of the 24 month warranty period, and upon request of the Developer, the District Engineer shall make a final inspection and upon correction of any defects or deficiencies, at the expense of the Developer, and satisfactory evidence of an executed bill of sale transferring ownership of constructed facilities to the District, the District Engineer may recommend final acceptance of the Water and/or Wastewater Mains or other facilities.

13. Oversizing

If, in the opinion of the District, an increase in line size is necessary in order to provide an acceptable level of service to the Developer parcel or other Customers within the District, the Developer may be required to provide oversized pipelines and/or facilities. The cost for the “oversizing” of such pipelines and/or facilities shall be borne by the Developer. The basis for such costs shall be the difference in unit prices between the maximum line size which is the Developer’s responsibility and the actual size to be constructed. The cost for the design and preparation of contract documents of these “oversized” pipelines shall be the sole responsibility of the Developer. If the District determines that it will construct the facilities, the Developer shall submit payment for the cost thereof. The District will not issue a notice of award until such payment has been made. The District may collect fees or charges as determined by the Board from other Customers served by the “oversized” facilities and may, as determined by the Board, reimburse the Developer for all or a portion of the oversizing cost incurred by the Developer.

14. Inspection

The District shall have a right to inspect at all times all facilities connected to, or to become connected to, the District’s Water and/or Wastewater System. Authorized employees and representatives of the District shall be allowed free access at all reasonable hours to any building premises or property receiving water or wastewater service to ensure compliance with the Rules and Regulations, policies and resolutions of the District.

This Agreement and the Approved Plans are intended to supplement one another. However, in the event of a conflict, the conflict shall be brought to the attention of the District's Manager, who shall have final authority to resolve any conflicts.

14. Governing Law.

This Agreement shall be construed in accordance with and governed by the laws of the State of Colorado.

15. Assignment.

Applicant may not assign this Agreement without the express written consent of the District.

APPROVALS BY THE DISTRICT

a) Approval of Application:

Date: ____/____/____

Lucas Hale
District Manager

EXHIBIT A

WIDEFIELD WATER AND SEWER DISTRICT

BILL OF SALE

THIS BILL OF SALE dated this __ day of _____, 20__, between _____, a _____ (“Grantor”) and WIDEFIELD WATER AND SANITATION DISTRICT, a quasi-municipal corporation of the State of Colorado, whose address is 8495 Fontaine Blvd., Colorado Springs, Colorado 80925 (“Grantee” or “District”):

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has bargained and sold, and by these presents does hereby grant and convey unto the District, its successors and assigns, free of all encumbrances, liens, security interests or claims of any nature, the following improvements, situate, lying and being in the County of El Paso and State of Colorado, described as follows:

The [water/sewer/water and sewer] facilities, equipment, and all related appurtenances and facilities, including all related personal property (“Improvements”), which are constructed or otherwise acquired by Grantor within the property generally known as [insert plat reference, property address, or other description identifying the development], and specifically described on Exhibit A attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the same, unto the District, its successors and assigns forever, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and Grantor, for itself, its successors and assigns, covenants and agrees to warrant and defend the sale of such Improvements hereby made unto the District, its successors and assigns, against any claim, lien or interest of any nature asserted by any other person against the Improvements, and all and every person or persons claiming by, through, or under Grantor, and warrants that the conveyance of the Improvements to the District, its successors and assigns, is made free from any claim or demand arising by, through, or under Grantor.

IT IS EXPRESSLY AGREED that the transfer and acceptance of this Improvements is subject to final acceptance by the District and to the following conditions:

All Improvements have been constructed in conformance with the District’s standards, specifications, and Rules and Regulations, inspected during construction by the District, satisfactorily tested, and approved.

All requirements of the District’s Rules and Regulations with respect to the Improvements have been met, including, but not limited to adequate easements, as-built drawings, warranty bonds, and conditional acceptance by the District.

Conditional acceptance of the Improvements was made by the District on [DATE] and the 24-month warranty period will expire on [DATE]. Upon expiration of the warranty period and satisfactory final inspection by the District, the District shall approve and execute the final acceptance of the Improvements conveyed herein.

IN WITNESS WHEREOF, the Grantor has executed this Bill of Sale on the date set forth above.

GRANTOR:

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT B

FINAL ACCEPTANCE

Upon expiration of the warranty period and satisfactory final inspection of the Improvements, the Widefield Water and Sanitation District hereby finally accepts the Improvements conveyed herein as in conformance with the District's Rules and Regulations and associated standards this ___ day of _____, 20__.

By: _____
Name: _____
Title: _____

EXHIBIT C

(Description of Assets being Conveyed)

EXHIBIT D

CONTRACTORS CHECKLIST

- _____ Provide Application for Approval to the District and District approves of Application. Review of the Application for Approval may determine if “upsized” pipe may be required to assist the District in providing for development further out.

- _____ Commitment Letter: Once Application for Approval has been approved, the District may provide to the Developer, a Letter of Commitment to provide water and wastewater service to the development. A Letter of Commitment for a larger area as a Master Commitment may be required prior to Application for Approval.

- _____ Plan Submittal: Contractor provides the District with two (2) complete sets of plans. The District shall take two (2) weeks to review and provide comment back on plans. Plans shall include all water mains 8-inch and larger plan and profile and all wastewater mains 8-inches and larger plan and profile.

- _____ Approved Plans: When plans are approved by the District, they shall be signed by the District Engineer and four (4) sets of signed drawings shall be provided to the District, half sizes may be substituted if requested by the District. Any and all changes to approved plans must be resubmitted to the District for review and approval.

- _____ Pre-Construction Meeting: After approval of plans and prior to commencement of construction, a pre-construction meeting must be held with the District prior to the District allowing any work to begin. Pre-construction meetings can be scheduled by calling Robert Bannister, District Engineer at 719-955-6118, Brandon Bernard, Water Manager at 719-955-0458, or Jason Dreessen, Wastewater Manager at 719-955-0458.

- _____ Easements: The Developer shall provide to the District easements to allow access for maintenance, to all facilities located outside City or County Right-Of-Way. The easement shall include all items from Items 3 and 4 of the Application for Approval and/or Sections 6.8 and 6.9 of the Rules and Regulations.

- _____ Conditional Acceptance: Developer must complete all punch list items from District inspection; provide to the District a two (2) year warranty; provide a warranty bond if required by the District, see Items 7 of the Application for Approval;
 - _____ Provide cost of construction and design to the District;
 - _____ Provide all red-lines and as-builts; andWhen the District has received all of these items, a letter of Conditional Acceptance will be provided to the Developer.

- _____ Final Acceptance: Prior to the date of Final Acceptance, the District Engineer shall inspect the development and determine if any additional warranty items are required prior to Final Acceptance. Provide the District with a signed Bill of Sell, signed Final Acceptance dated for the date of Final Completion and the Description of assets being conveyed. When all items are complete, the District will accept all conveyed assets.