

SECTION 7
SECURING AN AGREEMENT

7.0 INITIATION

Project documents and other related information must be submitted by the Developer. Other readily available information from SBMWD Engineering must also be compiled. The following submittals must be received before an Agreement will be drafted. **All of the information and documents must reference the TRACT OR PARCEL NUMBER and the EPN.**

- A completed legible copy of the "DEVELOPER-INSTALLED INFORMATION SHEET" located in Appendix F. Faxing the information sheet to the SBMWD is acceptable.
- Original of the Application for Water System Infrastructure Installation Agreement form from the Developer.
- List of Lot Numbers and Addresses indicating deferral of acquisition of service charges.
- Four sets (11" x 17"), Two sets (8 ½" x 11") paper copies of an APPROVED and RECORDED TRACT MAP. The Tract Map is approved by the City of San Bernardino and recorded with the County of San Bernardino. Black line or blue line copies are acceptable. If a recorded tract map is not available SBMWD will accept submittal of a signed copy of the tract map along with the instrument number, filing date and the filing location (i.e., book and page) of the recorded tract map until a copy of the recorded tract map is obtained.
- One set (22" x 34" Mylars) and six sets of 11" x 17" copies of approved Water Improvement Plans signed by both the SBMWD Engineer and by the City of San Bernardino Fire Department Representative. Black line or blue line copies are acceptable.
- Recorded Easement Documents.
- A copy of the current valid Cost Letter issued by SBMWD Water Utility Engineering with a copy of the receipt for payment of all required fees issued by customer service. Include copies of all past cost letters that are related to the project.

- A copy of the Engineer's Estimate Spreadsheet (Excel) or spreadsheets for all aspects and phases of the project.
- A packet of summarized ERC/DRC information including the latest project description, latest standard requirements, etc.
- An 8.5" x 11" Vicinity Reference Map that is representative of the project.

Additionally, determine the date when the Agreement will be needed. Give any additional details appropriate to the creation of the Agreement documents. For example, WU Administration will need to know the number of water improvement construction phases, housing phases, and the timing of project.

Use a copy of the "Developer-Installed Agreement Checklist" in Appendix G.

7.1 PREPARATION OF THE AGREEMENT

SBMWD Administration Staff will prepare the "WATER SYSTEM INFRASTRUCTURE INSTALLATION AND CONVEYANCE AGREEMENT" once ALL submittals are received.

7.2 EXTERNAL TRANSMISSION

A letter transmitting the Agreement to the Developer for signature. (See the attached SBMWD "go-by" letter master) The letter is from the Senior Administrative Coordinator to the Developer.

7.3 SUPPORT DOCUMENT SUBMITTALS

The documents listed below are to be submitted by the Developer to SBMWD with the executed Developer-Installed Agreement.

- Identity of competent foreman or superintendent.
- City of San Bernardino business license and any other licenses, permits, guarantees, approvals, and certificates.
- Proof of C-34 license, or Class A General Engineering license.
- Letter of qualifying experience - stating experience and business standing for the immediate past three years and provide at least three references relevant to experience.
- Developer, Contractor, or Subcontractor shall show that he has constructed at least 15,000 feet of ductile iron pipelines, 8 inches or greater in diameter and that he has tapped and installed at least 200 copper service laterals in ductile iron pipe. If required by the project plans and specifications, they must also show competence in working with cast iron and steel pipelines that are over fifty years old, all shall have been in city streets.
- Exhibit F - Agreement for Payment of Deferred Acquisition of Water Service(s) Charges.
- Irrevocable Letter of Credit or Performance Bond as required in Section 10 of the Developer-Installed Agreement and outlined in Section 10 of the Standard for Design and Construction for Water System Improvements.
- Irrevocable Letter of Credit or Warranty Bond as required in Section 10 of the Developer-Installed Agreement and outlined in Section 10 of the Standard for Design and Construction for Water System Improvements.
- Payments to the SBMWD - All costs and charges (direct and indirect) under the terms of the Agreement. These payments include: Department supplied materials, plan checks, inspection/testing, service charges, Department labor (actual costs), main charges, acquisition of service charges, and main reimbursement charges.

- Obtain proof of insurance requirements to the satisfaction of the Department. Present the original policies of insurance with Additional Insured Endorsements as required in Section 17 of the Developer-Installed Agreement and outlined in Section 8 of the Standard for Design and Construction for Water System Improvements.
 - General liability insurance.
 - Automotive/vehicle liability insurance.
 - Worker's compensation insurance.
 - Excess liability insurance.
- Execution of the Agreement (signed).
- Notarized company signatures/individual signatures.
- Certificate as to corporate principal (if a corporation).

7.4 AGREEMENT FOR DEFERRAL OF WATER SERVICE ACQUISITION FEES:

The Agreement for Payment of Deferred Acquisition of Water Service(s) Charges is Exhibit F of the Developer-Installed Agreement between the Department and the Applicant relating to the postponement of payment of acquisition of service charges for a particular project. The Deferral Agreement allows the Applicant to install water service laterals and service connections to each individual parcel at the same time the water main extension is made. Applicant is required to enter into this Agreement simultaneously with the execution of the Developer-Installed Agreement. Once the Agreement for Payment of Deferred Acquisition of Service(s) Charges has been signed and notarized by both parties, the Senior Office Assistant will record the Agreement with the County of San Bernardino Recorder.

7.5 INTERNAL TRANSMISSION

An SBMWD Approval Memorandum is prepared transmitting the final Agreement document and the Agreement for Deferral of Acquisition Charges (if applicable) to the Deputy General Manager for review, approval, and forwarding to the General Manager for approval and signature. (See the attached SBMWD "go-by" memo dated June 13, 2005). This memo is from the Senior Administrative Coordinator to the Deputy General Manager. After the Agreement is signed by all parties it is

returned to Administration. Upon receipt of the fully executed Agreement, Administration makes copies for distribution to Finance, Customer Service, and Engineering.

7.6 AGREEMENT FOR DEFERRAL OF ACQUISITION OF SERVICE(S) CHARGES - COUNTY RECORDATION PROCEDURE

- The Agreement for Deferral of Acquisition of Service(s) Charges is executed simultaneously with the Developer-Installed Agreement. Upon receipt of the signed Deferral Agreement, WU Administration will process the document for recordation with the County Recorder.
- WU Administration will prepare the Lot Numbers and Addresses spreadsheet and an 8 1/2" x 11" copy of the recorded Tract Map as attachments to the executed Deferral Agreement and take one original and one copy to the County Recorder for filing.
- WU Administration will also forward a copy of the original recorded Deferral Agreement along with a transmittal letter to the project owner, with a copy to the project owner's escrow/title company. (See attached "go-by" letter master.)

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

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JOHN A. PERRY, P.E.
Director of Water Reclamation
DAVID S. ERICKSON
Director of Administration & Finance
JON K. TURNIPSEED
Safety Program Manager

Insert Date

Insert Name of Person Signing Agreement

Insert Company Name

Insert Address

Insert City, State, Zip

Dear Insert Name of Person Signing Agreement:

**RE: UNEXECUTED DEVELOPER-INSTALLED WATER SYSTEM INFRASTRUCTURE
INSTALLATION AND CONVEYANCE AGREEMENT FOR TRACT NO. Insert
Tract No., Insert Project Name (EPN Insert EPN No.)**

Enclosed are two originals of the developer-installed Water System Infrastructure Installation and Conveyance Agreement and Exhibits between Insert Company or Project Name and the San Bernardino Municipal Water Department for Tract No. Insert Tract No. Please sign the originals and notarize where required to include the Capacity Claimed by Signer on the California All-Purpose Acknowledgment. When you have completed the documents, please return them to my office for execution by the General Manager.

Please go to Customer Service at 300 North "D" Street, 5th Floor, San Bernardino, California 92418 and provide them with a copy of your cost letter dated Insert date of most recent cost letter to pay the fees that are due with the developer installed agreement. A copy of your receipt must be included with the agreement submittal.

A copy of your business license and receipt is to be returned with this agreement. "The Developer shall procure, at the

Insert Name of Person signing agreement

Page 2

Insert date

Developer's own expense, a City of San Bernardino Business License . . . " (See page 6 of the agreement).

Concurrent with submittal, you are required to comply with all necessary insurance (page 27, Section 16 - Insurance Requirements) and bond requirements (page 18, Section 9 Bonding Requirements) set forth under the formal agreement. Please forward these sections to your insurance representative for compliance. If either you or your representative should have questions regarding the insurance requirements, please direct all questions to Doug Wozniak, Driver Alliant Insurance at dwozniak@driveralliant.com.

If you have any questions, please feel free to call Lorrie Laible at (909) 384-5136. Please reference Tract No. ~~Insert Tract No.~~ (EPN ~~Insert EPN No.~~) in any communications regarding this project.

Sincerely yours,

Tennie A. Lundy
Senior Administrative Coordinator

TAL:ldl
Attach.

cc: Matt Litchfield (w/o attach)

**CITY OF SAN BERNARDINO
MUNICIPAL WATER DEPARTMENT
INTEROFFICE MEMORANDUM**

TO: Stacey R. Aldstadt

FROM: Tennie Lundy

SUBJECT: DEVELOPER-INSTALLED AGREEMENT FOR REVIEW AND SIGNATURE
- TRACT 16457, WL COVENANT 88 ASSOCIATES, LLC (EPN
2003-036)

DATE: June 13, 2005

COPIES: W. William Bryden

Attached for your review and signature are the agreement documents for Tract 16457 with WL Covenant 88 Associates, LLC for developer-installed mains and services located at the northeast corner Palm and Irvington Avenues.

The following pages have been developed to identify the status of each item in the agreement. Please review each list and initial on the line next to the item if approved. Please let me know if any further action is required.

ITEMS FOR GENERAL MANAGER'S SIGNATURE

- Water System Infrastructure Installation and Conveyance Agreement (Page 36):

WL Covenant 88 Associates, LLC - Owner:

_____ *Two original agreements signed and notarized by Linda Valia, Project Manager. Needs General Manager's signature.*

- Exhibit F - Agreement For Payment of Deferred Acquisition of Water Service(s) Charges:

_____ *Completed. Needs General Manager's Signature*

**AGREEMENT ITEMS
FOR REVIEW AND APPROVAL**

- Faithful Performance Bond requires \$145,000.00 (Page 37)

_____ *Completed. Please review.*

- Warranty Bond requires \$36,250.00 (Page 40)

_____ *Completed. Please review.*

**INSURANCE SUBMITTALS FOR
EBS CONCRETE, INC. (PIPELINE CONTRACTOR)**

- _____ *No Submittals Received. Please review.*

**INSURANCE SUBMITTALS FOR
WL COVENANT 88 ASSOCIATES, LLC (OWNER)**

- **Acord Certificate of Liability Insurance Coverages
(Insurance forms inserted after page 45).**

_____ **Insured:** WL Homes LLC - Owner

Certificate Holder: City of San Bernardino

General Liability:

_____ Acord form submitted states \$25 Million Each Occurrence and \$30 Million General Aggregate.

*Agreement requires combined single limit of \$1 Million with \$5 Million Aggregate; or \$1 Million Aggregate, separate for this project as evidenced by endorsement. **Please review.***

Automotive Liability:

_____ Submitted \$1 million for automotive.

*Agreement requires Combined single limit of Liability of \$3 Million per accident for Bodily Injury, Death and property Damage. **Please review.***

Workers Compensation and Employers' Liability:

_____ Submitted \$1 million for Workers Compensation and Employers' Liability.

*Agreement requires statutory minimum amounts of coverage as required by the Labor Code of the State of California, and including Employer's Liability Insurance with a minimum limit of \$1 million. Such Worker's Compensation insurance shall be endorsed to provide a waiver of subrogation against the Department. **Please review.***

**ADDITIONAL INSURED ENDORSEMENTS SUBMITTED
WL COVENANT 88 ASSOCIATES, LLC (OWNER)**

Additional Insured listed as: The City of San Bernardino, the City of San Bernardino Municipal Water Department, their Council members, Commissioners, Officers, Agents, Employees, Consultants, and Engineers and all public agencies from whom permits will be obtained and their Directors, Officers, Agents, and Employees.

General Liability Additional Insured:

_____ *Submitted Home Builders Protective Insurance Policy Endorsement: Additional Insured - Owners, Lessees or Contractors - Broad Form. Please review.*

Endorsement for Automotive Liability

_____ *Submitted Additional Insured Endorsement. Please review.*

Workers Compensation and Employers Liability:

_____ *Submitted Schedule of Additional Insured. Endorsement includes Waiver of Our Right to Recover From Others Endorsements - California. Please review.*

- **Certificate as to Corporate Principal (page 45):**

_____ *Not Completed.*

Stacey R. Aldstadt

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June 13, 2005

**SUBJECT: DEVELOPER-INSTALLED AGREEMENT FOR REVIEW AND SIGNATURE
- TRACT 16457, WL COVENANT 88 ASSOCIATES, LLC (EPN
2003-036)**

Your prompt attention to this Agreement is greatly appreciated.
If you have any questions, please contact me.

Tennie A. Lundy
Senior Administrative Coordinator

Attach.

If you approve, please indicate below and then forward documents
to Bernie for signature.

Contract Documents Approved

Stacey R. Aldstadt

Date

Not Approved - See Following Comments

CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

BOARD OF WATER COMMISSIONERS

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President

Commissioners
JUDITH W. BATTEY
TONI CALLICOTT
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BERNARD C. KERSEY
General Manager Emeritus
STACEY R. ALDSTADT
General Manager
W. WILLIAM BRYDEN, P.E.
Director of Water Utility
JOHN A. PERRY, P.E.
Director of Water Reclamation
DAVID S. ERICKSON
Director of Administration & Finance
JON K. TURNIPSEED
Safety Program Manager

Insert Date

Insert Name of Signer of Agreement
Insert Company Name
Insert Mailing Address
Insert City, State and Zip

Dear Insert Name:

RE: RECORDED COPY OF AGREEMENT FOR PAYMENT OF DEFERRED
ACQUISITION OF WATER SERVICE(S) CHARGES FOR TRACT NO.
INSERT TRACT NO. & NAME OF DEVELOPMENT (EPN Insert EPN #)

Attached is your copy of the original Agreement for Payment of
Deferred Acquisition of Water Service(s) Charges for Tract No.
Insert Tract No. and Project Name recorded by the San Bernardino
County Recorder.

Copies have been forwarded to San Bernardino Municipal Water
Department Customer Service, Finance, and Collections to track
payment of acquisitions from the escrow company(ies) when
services are requested to be activated.

If you should have any questions, please contact Lorrie Laible
at (909) 384-5136. Please reference Tract No. Insert Tract No.

Insert Name

Page 2

Insert Date

and EPN Insert EPN No. in any communications regarding this project.

Sincerely yours,

Tennie A. Lundy
Senior Administrative Coordinator

TAL:ldl
Attach.

cc: Insert Contact Name
Name of Escrow/Title Company
Address
City, State, Zip