

Administration
2010 Construction Agreement
Developer to Build Extension



Project Name: _____

Construction Agreement No.: _____

The undersigned Developer and Property Owner hereinafter designated as “Developer”, requests permission to construct an extension to the water distribution system of Silverdale Water District, hereinafter designated as “District”. The terms and conditions for construction of this improvement shall be as follows:

1. Location of Extension

The proposed extension will be installed on or for the following described Kitsap County, Washington, Real Estate:

Assessor’s Tax Parcel ID No.: _____

2. Description of Extension

The proposed extension will consist of the following improvements:

The improvements will be constructed according to plans and specifications provided or approved by the District, and in accordance with the “Conditions and Standards for Constructing Extensions to the Water System” adopted by the Board of Commissioners. A copy of this document is on file at the District office, and its terms and conditions are incorporated by reference in this Agreement.

3. Construction Fee

The Developer shall compensate the District for the District’s costs in connection with construction of the extension. This compensation shall be known as the construction fee. The construction fee is designed to reimburse the District for its out-of-pocket expenses for legal, engineering, labor, materials, permits, and federal, state and local taxes associated with the development process, plus an allowance equaling fifteen-percent of the total labor and materials cost provided by the District to cover administrative overhead.

4. Computation and Payment of Construction Fee

The construction fee includes the following two fees and shall be computed and paid as described below:

- a. Administrative Fee: For all developer to build extensions, there shall be an administrative fee equal to \$1,800.00, plus \$2.50 per lineal foot of water main to be installed, plus 5% of the estimated construction cost of all capital facilities other than water mains to be installed (e.g. pumps, reservoirs, wells, and pressure reducing stations, etc.). The administrative fee shall be paid to the District on tender of this agreement, and is non-refundable. The amount being paid is \$_____
 - b. Design Fee: If a developer wishes the District to design the system to be built, the developer shall pay to the District, in addition, to the administrative fee, all expenses which the District incurs for its design services. At tender of this agreement, a deposit towards the design services shall be paid to the District. This deposit shall be \$1,800.00, plus \$2.50 per lineal foot of water main to be installed, plus 5% of the estimated construction cost of all capital facilities other than water mains to be installed (e.g. pumps, reservoirs, wells, and pressure reducing stations, etc.). This deposit shall be paid to the District on tender of this agreement. The amount of the deposit for design services is \$_____
- Prior to acceptance of the extension (see paragraph 14 of this agreement) the District will prepare an accounting of the total construction fee incurred. The difference between the total deposit and the construction fee shall be paid to the District prior to obtaining connection or service from the extension. If the total deposits exceed the construction fee, the District will reimburse the difference to the Developer.
- c. Total Construction Fee: \$_____

5. Engineering and Design

The Developer may elect to have the proposed extension designed by a duly registered Washington engineer of its own choosing, or by the District engineer. Systems designed by persons other than the District engineer must be reviewed and approved by the District before construction may commence on the extension. The District services in designing a system, or reviewing a system designed by the Developer's engineer, are a cost to the District within the construction fee.

6. Preliminary Engineering

The Developer must provide the information requested below, whether the system is designed by the Developer's engineer or the District.

- a. The Developer shall furnish two (2) copies each of a final plat and proposed road profiles to the District. The road profile elevations shall be referenced to an acceptable datum.
- b. The final plat shall be to the scale of 1-inch equals 100 feet, or 1-inch equals 50 feet. Road profiles may be to any suitable scale selected by the Developer.
- c. The Developer shall provide the description, location and elevation of all bench mark data available on the project site and this information, wherever possible, shall be indicated on the maps furnished by the Developer.
- d. The Developer shall disclose the location of any existing wells that may be on the property. All wells must be abandoned per state standards.

7. Evidence of Insurance

The Developer shall provide written evidence of insurance covering public liability and property damage to third parties, in which the District and its engineer are named insured, to the extent provided in the General Conditions. The Developer agrees to indemnify, and hold the District and its engineer harmless from, any claims against the District relating to construction of the extension, including costs and attorney's fees incurred by the District to defend against the claim.

8. Easements

The Developer shall provide easements for all capital facilities not installed on District property or public rights-of-way, together with evidence that the Developer has title to the easement, and, if required, a title insurance policy in the sum of not less than \$1,000.00 per 500-feet of easement, with the District as the name insured.

9. Permits

All necessary permits from any governmental agency shall be obtained by Developer directly or, if required, the District will obtain the same but at the Developer's expense and the District shall be provided with a copy of all such permits before construction commences.

10. Contractors, Subcontractors, Materialmen, and Suppliers

The District wishes to insure the extension is constructed in a workmanlike manner. Before construction commences, the Developer shall submit to the District the names of all contractors, subcontractors, materialmen, and suppliers who will be associated with the job. The District reserves the right to determine whether the persons or entities submitted are satisfactory. The District will consider the person or entities prior experience, available manpower and equipment, financial ability, and prior work history for the District. The District will advise the Developer of any unsatisfactory contractor, subcontractor, materialmen, or supplier within 15-days of receipt of

a Developer's intended choices for these jobs. If a contractor, subcontractor, materialman, or supplier is rejected, the Developer shall submit a second choice for the District's consideration.

11. Performance Bonds

The Developer shall furnish to the District a performance bond between the developer and the District upon the form approved by the District and in an amount equal to the District's estimated cost of the project or actual cost, if known, whichever is less, prior to the staking of the extension for construction.

The performance bond shall require the Developer to pay all persons furnishing labor and materials and hold the District harmless from any claims therein, whether any such claim would arise under the public works lien statutes, or the mechanic's lien statutes of the State of Washington, and compliance with the formal requirements of either or both of said statutes shall not be a condition to recover upon said bond. The bond will be released ninety days after the District accepts the system for use and operation pursuant to Paragraph 14, or 90-days after the last work on the system, whichever is later.

The Developer may post cash, a letter of credit, or an assignment of funds on deposit in a bank, in lieu of a bond, on the same terms and conditions as described above. A letter of credit, or an assignment of funds on deposit, must be approved by the District's manager and attorney. An assignment of funds on deposit will not be accepted, unless the depository bank waives its "banker's right of set off" in those funds.

If the Developer does not wish to post a performance bond, cash, a letter of credit, or an assignment of funds on deposit in a bank, in lieu of a bond, the Developer may instead agree that no service will be provided to the extension system until 90-days after the District accepts the system for use and operation pursuant to Paragraph 14, or 90-days after the last work is done on the system, whichever is later. If a Developer wishes to proceed on this basis, the Developer must announce its intentions to the District in writing before construction commences on the extension. At the end of the 90-day waiting period, the Developer must produce a title report showing that no mechanics and material men's liens have been claimed against the water system. Upon receiving this report, the District will commence to provide service to the extension system.

12. Grading Roads

The Developer shall grade all roads to the design subgrade elevation before starting to install any underground utilities. If the Developer changes the subgrade elevation after completion construction of any underground utilities, the Developer agrees to raise or lower these utilities as is required by the new subgrade elevation at no cost to the District.

13. Connection to the District's Water System

The Developer shall give the District 48-hour's written notice of the date and time when it wishes to connect an extension to the District's existing system. All connections must be made in the presence of a District representative. The District reserves the right to require that a connection be made by "live tap" where disruption of water service would, in the opinion of the District, be detrimental.

14. Acceptance for Use and Operation

Before the District will accept a system for use and operation the Developer must take the following steps:

- a. Complete construction of the system.
- b. Pressure test all water lines.
- c. Pass sanitary tests, and receive acceptance from the State of Washington and/or the Kitsap County Health Department for water samples taken from the system.
- d. Pass final inspection and receive approval from the District, certifying that the system is in accordance with the plans and specifications.
- e. Pay the balance of the extension fee.
- f. Provide a maintenance bond on the form approved by the District and in an amount equal to ten percent (10%) of the construction cost.
- g. Provide all necessary easements in a form satisfactory to the District.
- h. Provide a bill of sale in a form satisfactory to the District.
- i. Provide "As-Built" drawings in a form satisfactory to the District.
- j. The District is not obligated to provide any service to properties served by the extension until the Developer meets the conditions listed above. The District may, however, in its sole discretion, provide temporary service to properties served by an incomplete extension, but only on such written terms as the District may choose. *(No temporary service will be provided until all charges addressed in Section 16 are paid in full. The Developer is reminded that the District has a charge and service penalty for unauthorized use of District facilities, or tampering with the same.)*

15. Limitation of Period for Acceptance

The extension shall be complete and accepted by the District within one year of the date on this Agreement, or this contract will be void, and no work may be done, or service provided, until a new Construction Agreement is negotiated and signed.

16. Capital Facilities Charge, Service Installation Charge, and Front Footage Charge

Properties to be served from the extension are also subject to the capital facilities charge, service installation charge, and front footage charge applicable under the terms of the District's "Schedule of Charges". The capital facilities charge, service installation charge, and front footage charge, shall be paid before any service is provided to the property, whether the service is temporary or permanent. These fees shall be paid at the rates in force when service is first provided.

17. Additional Provisions

The following provisions shall apply, if checked:

- Reimbursement Agreements: A Reimbursement Agreement is required for the improvements constructed under this contract. The reimbursement shall be on the terms and conditions stated in the attached addendum entitled "Reimbursement Agreement". The parties agree that this addendum shall be recorded. If there is no reimbursement addendum to this contract, no reimbursement is allowed.
- Streetlights: The Developer wishes to construct a streetlight system within the development, and convey this to the District for use and operation. This conveyance must be approved through the public hearing process set forth in RCW 57.08.060. It is the Developer's responsibility to initiate this process through presentation of a petition to the District commissioners. Information about how to initiate this process is available through the District office. The District will not accept a streetlight system for use and operation, until the public hearing process is complete.
- Annexation: The real property where the development is located must be annexed to the legal boundary of the District, before the District will accept the system for use and operation, as provided in Paragraph 14 above. It is the Developer's responsibility to initiate and complete the annexation process. Instructions outlining the procedure may be obtained from the District office.
- Well/Reservoir Site: Before the District will accept the system for use and operation, as provided in Paragraph 14 above, the Developer shall convey a well and/or reservoir site legally described on attached Exhibit "A", to the District. The conveyance must be by warranty deed, free and clear of all encumbrances, except those acceptable to the District. The District will pay all expenses associated with the conveyance, including title insurance, real estate excise taxes, District engineering and District attorney's fees.
- Other:

18. Attorney's Fees

If any party to this agreement places this Agreement in the hands of an attorney for enforcement of any clause in the agreement, the prevailing party in that dispute shall be entitled to an award of costs and a reasonable attorney's fee.

19. Warranty of Authority

The Developer and Property Owner warrant they are the owners of all real property that is subject to this Agreement and, upon request of the District, agree to provide a title report showing they are the owners of all the real property described, and have authority to execute this Agreement with respect to that property.

Developer

Property Owner

Name

Name

Address

Address

City, State and Zip

City, State and Zip

Representative

Representative

Phone Number

Phone Number

Email Address

Email Address

DATED this _____ day of _____, 20F€

Developer (*Signature*)

Property Owner (*Signature*)

Silverdale Water District

DATED this _____ day of _____, 20F€

Commissioner

Commissioner

Commissioner