

AGREEMENT FOR PROVISION OF SEWER SERVICES

**8572 Talbert Avenue
Fountain Valley, California**

THIS AGREEMENT is made and entered into this _____ day of _____, 2024, by and between the City of Huntington Beach (“CHB”), the City of Fountain Valley (“CFV”) and Bonanni Development Company VI, LLC, a California limited liability company (“Owner”). CHB, CFV, and Owner shall collectively be referred to herein as the “Parties.”

RECITALS

WHEREAS, Owner owns the real property generally located at 8572 Talbert Avenue, in the City of Fountain Valley, County of Orange, State of California, and which consists of Assessor’s Parcel Numbers 112-781-73 and 112-781-74 (“the Property”), and is more particularly described in the legal description attached hereto as Exhibit “A;” and

WHEREAS, Owner is constructing 15 two-story single-family residential units on the Property (the “Project”); and

WHEREAS, Owner wishes to receive sewer service for the Property from CHB; and

WHEREAS, the Property is located within the jurisdictional boundaries of CFV; however, CHB’s sewer system is in close proximity to the Property, and it is more feasible or practical for the Owner to connect the Property to CHB’s sewer system than CFV’s sewer system; and

WHEREAS, CHB and CFV are parties to that certain Agreement, approved by CHB on October 7, 1974, and approved by CFV on October 15, 1974, regarding joint utilization of sewage facilities; and

WHEREAS, Owner has requested and CHB has agreed to provide sewer services to the Property subject to the provisions of this Agreement; and

WHEREAS, Owner has agreed to pay the fees and charges of CHB in connection with the provision of sewer services; and

WHEREAS, both CHB and CFV find that it is in the public interest to permit the Owner to connect to CHB’s sewer system.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

Section 1. Construction of Facilities

A. In conjunction with Project construction, Owner or Owner's agent or assignee shall construct all sewer facilities, which are necessary to connect to CHB's sewer system. All building connections, street laterals and appurtenances thereto shall be maintained in a safe and sanitary condition, and all devices or safeguards which are required by CHB regulations shall be maintained in good working order. All such building connections, street laterals, appurtenances, and devices shall be maintained by Owner.

B. Any public collector or main sewer line required to be constructed or extended to connect the Property to CHB's sewer system shall be constructed and paid for by Owner or Owner's assignee at Owner's sole cost (including the cost of any associated rights-of-way, easements, licenses, permits, etc.) then upon completion the same shall be dedicated to, and accepted by CHB.

C. Prior to construction of the sewer facilities, Owner shall submit plans, reports and specifications for construction of all sewer facilities and connection to CHB's sewer system for approval by CHB. CHB shall have the right to inspect at any time all such construction and require changes that CHB deems necessary, consistent with the approved plans, for proper connection to CHB's sewer system.

Section 2. Provision of Sewer Services

CHB agrees to provide sewer services to Owner consisting of permitting connection to CHB's sewer system for the transport of sewage from the Property to downstream sewer trunk lines owned and operated by the Orange County Sanitation District ("OCSD"). Furthermore, Owner and any subsequent owners, successors-in-interest or assigns, shall comply with all applicable CHB, OCSD, and State laws, regulations, rules, and procedures pertaining to dischargers and discharges into, and the use of, CHB's facilities. CHB shall operate the sanitary sewer system facilities and provide sanitary sewer service to the Property in a manner consistent with all applicable governmental laws, ordinances and regulations, including permits, or orders including but not limited to any applicable Waste Discharge Requirements issued by the State Water Resources Control Board.

Section 3. Fees and Charges

A. Exhibit "B" hereto is a list of the fees and charges applicable for the services of CHB to the Property (the "Schedule of Fees"), which is incorporated herein by this reference. Owner or Owner's assignee shall pay to CHB the fees and charges described on the Schedule of Fees prior to issuance of a sewer connection permit for Owner's sewer lateral to CHB's existing sewer main. Owner acknowledges and agrees that Exhibit "B" is an estimate of

actual fees and the Schedule of Fees may be subject to revision by CHB due to actual costs incurred or fee adjustments applicable in subsequent fiscal years.

B. Owner agrees, for itself and any subsequent owners, successors-in-interest or assigns, that CHB shall have the right to collect the fees either directly on the Orange County property tax bill or by invoice to the owner of record for the Property or any portion thereof. The Owner shall notify any purchaser of the Property or any portion thereof, or any successor-in-interest or assignee of the Owner with respect to the Property or any portion thereof, of the obligation under this Agreement for the fee payments.

C. In the event that the Owner, or any subsequent owner, successor-in-interest or assignee fails to make payment of the fees upon request, then CHB shall be under no obligation to continue sewer service and CHB may discontinue all services to the Property or any portion thereof pursuant to Section 5 below, in addition to any other remedy available to CHB for such breach, including, but not limited to, all reasonable attorney's fees and costs should CHB be required to file a legal action to recover amounts due and owing hereunder.

D. Any payment received by CHB that is later than thirty days (30) following the date of notice of payment due by CHB shall incur a one-time penalty of ten percent (10%) and shall accrue interest at the rate of three and one-half percent (3.5 %) per month.

E. CHB shall be entitled to charge fees and other charges to the extent permitted by law to provide sewer services to the Property in CFV consistent with fees and others charges to provide services to the overall service area of the CHB. CHB shall bear any costs or attorneys' fees associated with the imposition or collection of sewer fees and charges to customers on the Property, including but not limited to the costs associated with any notices, elections or analyses required by law as a condition to imposing such fees.

Section 4. Hold Harmless

Except for damages or injuries arising out of CHB's sole negligence or its willful acts or omissions, Owner agrees, for itself and any subsequent owners of the Property or any portion thereof, or successors-in-interest or assigns, to indemnify, defend (at Owner's sole cost and expense) and hold CHB, its directors, officers, agents and employees harmless from any and all claims, suits, causes of action, liabilities, or losses for personal injury, death, or property damage arising out of or in connection with this Agreement or the construction and installation of sewer facilities by Owner or Owner's agent or lessee, the connection or disconnection of the Property to CHB's sewer system, or the provision of sewer services to the Property or any portion thereof by CHB.

Section 5. Term and Termination

A. Term. Unless earlier terminated by CHB as provided below, this Agreement shall remain in full force and effect until the Owner or any subsequent owners of the Property determine that the sewer services of CHB are no longer necessary and the Property has been disconnected from CHB's sewer system.

B. Termination by CHB. CHB may terminate this Agreement, including the provision of sewer service, for any material breach of this Agreement, including delinquent payment by Owner or any subsequent owner of any portion of the Property, or any successor-in-interest or assignee of the Owners. CHB shall provide Owner or the owner of record of any portion of the Property with written notice of any material breach of this Agreement. The Owner or the owner of record of any portion of the Property shall have thirty (30) days from the date of notice to cure the breach to the satisfaction of CHB. In the event of CHB's termination of services under this Agreement for delinquency in payment or other breach, the Owner, the successor-in-interest to the Owner or the owner of record of any portion of the Property shall be responsible for disconnecting the Property from CHB's sewer system. The party responsible for making the disconnection shall pay all costs associated with the disconnection and shall submit plans for CHB approval prior to disconnecting from CHB's system.

C. Termination by Owner. Owner or any subsequent owners of the Property may terminate this Agreement at any time upon thirty (30) days advance notice to CHB. However, termination of this Agreement shall only become effective upon disconnection of the Property from CHB's sewer system by Owner or the then current owner or owners of the Property. The party responsible for making the disconnection shall pay all costs associated with the disconnection and shall submit plans for CHB approval prior to disconnecting from CHB's system.

Section 6. Assignment

The rights and obligations under this Agreement may not be assigned without notice to CHB and written consent of CHB to the assignment, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CHB agrees that Owner may assign certain rights and obligations under this Agreement to the homeowners association upon formation, or any purchaser of the Property; provided, however, that Owner's obligations to CHB pursuant to Section 4 of this Agreement shall continue and survive such assignment. To the extent that an assignment occurs, the assignee(s) shall be obligated to comply with all terms and conditions of this Agreement.

Section 7. Subsequent Owners; Homeowners Association

At the time Owner makes a conveyance of the Property or any portion thereof to a purchaser, Owner shall notify the purchaser of this Agreement and Owner shall notify CHB in writing of the name and address of the purchasing party and the portion of the Property conveyed. Each subsequent owner shall be obligated to comply with all terms and conditions of this Agreement. At the time the homeowners association for the Property is established, Owner shall notify CHB in writing of the name and address of the homeowners association.

Section 8. Interpretation and Governing Law

This Agreement shall be construed according to its fair meaning and as if prepared all Parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

Section 9. No Waiver

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect to any occurrence or event shall be deemed a waiver of any right or remedy in respect to any other or subsequent occurrence of event.

Section 10. Entire Agreement

This Agreement contains the entire agreement between the Parties with respect to the matters provided for herein. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

Section 11. Severability

If any part of this Agreement is held, determined or adjudicated to be illegal, void or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 12. Notices

All notices required to be given under this Agreement shall be deemed given upon deposit in the United States mail if mailed with prepaid postage, or upon personal delivery to the parties hereto at the following addresses:

Owner	Bonanni Development Company VI, LLC 15132 Bolsa Chica Street Huntington Beach California 92649
CHB	City of Huntington Beach Attn: Director of Public Works 2000 Main Street, P.O. Box 190 Huntington Beach, CA 92648
CFV	City of Fountain Valley Attn: City Clerk 10200 Slater Avenue Fountain Valley, CA 92708

REST OF PAGE NOT USED

Section 13. Due Authorization

Each of the persons executing this Agreement on behalf of Owner, CFV and CHB warrant and represent that they are duly authorized having full power and legal authority to bind their respective parties to the terms of this Agreement, and each respective party has the full right, power, capacity and authority to enter into this Agreement and perform all of its provisions and obligations.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the date and year set forth above.

OWNER:
Bonanni Development Company VI, LLC


Name: ED BONANNI
Title: member


Name: BRET BONANNI
Title: MEMBER

CHB:
City of Huntington Beach
A municipal corporation

Mayor

ATTEST:

City Clerk


APPROVED AS TO FORM:


City Attorney

INITIATED AND APPROVED:


Director of Public Works

CFV:
City of Fountain Valley


~~Mayor~~ City Manager

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

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 Orange

On March 12, 2024 before me, Jeanice A. McFall - Notary Public
(insert name and title of the officer)

personally appeared Ed Bonanni and Bref Bonanni,
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 Jeanice A. McFall (Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

PARCELS 2 AND 3 OF PARCEL MAP NO. 85-134, IN THE CITY OF FOUNTAIN VALLEY, COUNTY OF ORANGE, STATE OF CALIFONRIA, AS SHOWN ON THE MAP FILED IN BOOK 201, PAGES 21 AND 22 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

EXHIBIT "B"

SCHEDULE OF FEES AND CHARGES

City Sewer Connection fee: \$2,594 per single family dwelling unit
\$2,121 per multi family dwelling unit

15 Single Family Dwellings x \$2,594 = **\$38,910**

Orange County Sanitation District Capital Facilities (Capacity) Fee:

Single Family Residential (SFR)⁵	Per Each	
5+ bedrooms		\$7,949
4 Bedrooms		\$6,806
3 Bedrooms		\$5,719
2 Bedrooms		\$4,633
1 Bedrooms		\$3,545

11 SFR units (3 bedroom) x \$5,719 = \$62,909

4 SFR units (4 bedrooms) x \$6,806 = \$27,224

Total OCSD Capacity Fee = **\$90,133**

TOTAL CITY AND OCSD CONNECTION FEES = \$38,910 + \$90,133 = \$129,043

Monthly City Sewer Service user charge: \$10.97 (per single family dwelling unit)

Note: The fees listed above reflect the current rates based on the City's and County's current fee schedules and shall be paid at the rates applicable at the time of Sewer Connection Permit issuance. The current rates are subject to periodic adjustments.