

**AGREEMENT**  
**BETWEEN WEST VALLEY SANITATION DISTRICT**  
**AND**  
*<insert company name here>*  
**FOR THE PERFORMANCE OF WORK ON DISTRICT SEWERS**

This Agreement (“Agreement”) is entered into as of \_\_\_\_\_ by and between the West Valley Sanitation District of Santa Clara County (“District”), located in Campbell, California, and *<insert company name here>* (“Contractor”), located in *<insert city here>*, California (hereinafter collectively referred to as the “Parties”).

**RECITALS**

1. District Ordinance Code Sections 6.040 and 9.060 require that the installation, construction or repair of a Sewer located within the District shall be performed by a contractor properly licensed by the California State License Board (“CSLB”).
2. A licensed contractor must also register with the District prior to being issued a permit for such work.
3. Contractor desires to perform installation, construction or repair of a Sewer located within the District (hereinafter “Work”).
4. The District has determined that the Contractor is currently licensed with the CSLB under one of the following CSLB licensing classifications: “A”, “C-42” or “C-34”.
5. The District has further determined that Contractor has properly applied to and registered with the District to perform the Work in accordance with District Ordinance Code Chapter 9.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. Definition of Sewer**

For the purposes of this Agreement, the definition of “Sewer” shall be the definition that appears in District Ordinance Code Chapter 1, Section 1.050, page 1-13.

**2. Performance of Work**

Contractor shall perform the Work in accordance with the District’s Ordinance Code and Section 10 of this Agreement.

**3. Insurance Requirements**

Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by the Contractor, his or her agents,

representatives, employees, or subcontractors.

- a. Minimum Scope and limit of Insurance. Coverage shall be at least as broad as:
  1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
  2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
  3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
- b. If Contractor maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.
- c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: Contractor shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees, and volunteers; or Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- d. Endorsements. The policies shall contain, or be endorsed to contain, the following provisions:
  1. General Liability and Automobile Liability Coverages. West Valley Sanitation District, its Board, the City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara, and their officers, employees, and agents are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to West Valley Sanitation District, its Board, the City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara, and their officers, officials, employees, and agents.

2. Workers' Compensation Coverage. The insurer shall agree to waive all rights of subrogation against the West Valley Sanitation District, its Board, the City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara, and their officers, employees, and agents for losses arising from the Work performed by Contractor.
  3. Contractor's insurance coverage shall be primary insurance as respects West Valley Sanitation District, its Board, the City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara, and their officers, employees, and agents. Any insurance or self-insurance maintained by the District, its Board, the City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara, and their officers, employees, and agents shall be excess of Contractor's insurance and shall not contribute with it.
  4. Each insurance policy required by this Agreement shall provide that coverage shall not be canceled, except with notice to the District.
- e. Verification of Coverage. Contractor shall furnish the District with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

#### **4. Indemnification and Assumption of Risk**

##### **a. Contractor's Indemnification**

In consideration of the District's authorization to install, construct and/or repair a Sewer in public roads or easements within the District, Contractor agrees to remedy any defects in the Work and pay for any damages to other work resulting therefrom that may appear within a period of one year after completion of the Work. Furthermore, Contractor agrees to indemnify, defend with counsel reasonably acceptable to District, and hold harmless the District, its officers, employees, volunteers, and agents ("District Parties") from and against any and all liability, claims, actions, causes of action or demands whatsoever against any of them, including any injury to or death of any person or damage to property or other liability of any nature, arising out of or in any way connected with the performance of the Work by Contractor or Contractor's employees, subcontractors, or agents. The foregoing obligation of Contractor shall not apply when the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of District Parties. The District's acceptance of insurance certificates and endorsements required under this Agreement shall not relieve Contractor from liability

under this indemnification and hold harmless clause. This clause shall survive the expiration or early termination of this Agreement.

b. Contractor's Assumption of Risk and Waiver of Claims

Contractor agrees to voluntarily assume any and all risk of, and waives any and all claims or causes of action against District Parties for any and all loss, damage or injury to the person or property of Contractor, its agents, subcontractors, employees, officers, representatives, permittees, and invitees, which may occur in, on or about the District facilities or property at any time in any manner, except such loss, injury or damage as may be caused by the sole active negligence or sole willful misconduct of District Parties.

5. Attorney's Fees and Costs

In the event of a judicial dispute between the Parties with respect to the enforcement or interpretation of this Agreement, the prevailing party in such dispute shall be entitled to receive, in addition to such other award as the court may deem appropriate, full reimbursement for its court costs and reasonable attorneys' fees incurred therein.

6. Partial Invalidity

In the event that any portion of this Agreement or any provision hereof shall be deemed as invalid as contrary to applicable law, the balance of this Agreement shall be enforced according to its term, and that portion found unenforceable shall be interpreted and enforced to the extent that it may be within said applicable laws.

7. Disputes

All claims, counterclaims, disputes and other matters in question between the District and the Contractor arising out of or relating to this Agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of California. Pending final resolution of a dispute thereunder the Contractor shall diligently proceed with the services provided under this Agreement.

8. Waiver

Contractor agrees that District's waiver of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver of any other provision or a waiver of any subsequent breach or violation of the same or any other provision. District's acceptance of the performance of any of Contractor's services will not be a waiver of any provision of this Agreement.

9. Independent Contractor

Contractor, in performance of this Agreement, is an independent contractor. Contractor shall maintain complete control over all of Contractor's employees, any subcontractors and Contractor's operations. Neither Contractor nor any person retained by Contractor may represent, act or purport to act as the agent, representative or employee of District. Neither Contractor nor District is granted any right or authority to assume or create any obligation on behalf of the other.

**10. Compliance with Laws and Regulations**

Contractor shall comply with all applicable laws, ordinances, codes, regulations, orders, requirements, and policies of the federal, state, and local governments.

**11. Governing Law**

California law shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in Santa Clara County, California.

**12. Notices**

All notices and other communications required or permitted to be given under the Agreement shall be in writing and shall be personally served, or mailed, postage prepaid via U.S. mail, or sent via courier service, addressed to the respective parties as follows:

District:

Jon Newby  
District Manager and Engineer  
West Valley Sanitation District  
100 East Sunnyoaks Avenue  
Campbell, CA 95008

Contractor:

<insert company signatory here>  
<insert company signatory title here>  
<insert company name here>  
<insert company address here>  
<insert company address here>

Notice will be effective on the date personally delivered or if sent by courier service, on the date of receipt. If mailed, notice will be effective three (3) days after deposit in the mail.

The parties may change their respective addresses in accordance with provisions of this Section.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed.

**WEST VALLEY SANITATION DISTRICT**

**CONTRACTOR**

\_\_\_\_\_  
Jon Newby  
District Manager and Engineer

\_\_\_\_\_  
<insert company signatory here>  
<insert company signatory title here>

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date