

## AGREEMENT FOR OUT OF BOUNDARY SEWER SERVICE

This Agreement For Out of Boundary Sewer Service (“**Agreement**”) is dated for reference purposes as of \_\_\_\_\_, 2019, by and between LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT, a community services district located in San Bernardino County, California (“**LACSD**”), and CRESTLINE SANITATION DISTRICT, a sanitation district located in San Bernardino County, California (“**CSD**”). LACSD and CSD are sometimes hereafter referred to individually as “**Party**” and collectively as “**Parties**”.

### RECITALS

**A.** The real property described below (“**Property**”) lies within the CSD sewer service boundary, but outside the boundaries and sphere of influence of LACSD.

**B.** Sewer service for the Property is currently provided by a septic system.

**C.** Due to the potential threat to the health and safety of the public caused by continued use of septic systems which would be avoided by application of a sanitary sewer system that is considered more environmentally safe and a better management practice for ensuring that wastewater is professionally handled by State-licensed operators, the San Bernardino County Department of Environmental Health Services requires properties to connect to a public sewer system if feasible.

**D.** CSD’s existing sewer system is not located near the Property, but LACSD has an existing sewer main adjacent to the Property.

**E.** In light of the above, the owner of the Property wishes to receive sewer service from LACSD pursuant to Section 56133 of the California Government Code and the policies and procedures of the Local Agency Formation Commission for San Bernardino County (“**SBLAFCO**”).

**F.** The provision of sewer service by LACSD to the Property will not adversely impact sewer service to other LACSD customers or result in a significant loss of revenue to LACSD.

**G.** LACSD is willing to serve the Property on an interim basis in accordance with the terms of this Agreement, including the Exhibit attached hereto, until such time as CSD determines in the exercise of its sole discretion that CSD shall provide service to the Property. CSD is willing to consent to interim service by LACSD.

**H.** Pursuant to California Government Code Section 56133, an out-of-boundary service agreement must be approved by SBLAFCO. Under California Government Code Section 56133, SBLAFCO may authorize a district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or residents of the affected territory.

**I.** CSD will submit this Agreement to SBLAFCO for approval.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated into the Operative Provisions below, by this reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LACSD and CSD agree as follows:

**OPERATIVE PROVISIONS**

**1. Service Details.**

- a. **Property Owner(s):** APRC INC., a \_\_\_\_\_
- b. **Property Address:** \_\_\_\_\_
- c. **Property APN(s):** \_\_\_\_\_
- d. **Sewer Service Line to be Provided:** \_\_\_\_\_
- e. **Nearest LACSD Service Line:** \_\_\_\_\_
- f. **Nearest CSD Service Line:** \_\_\_\_\_
- g. **Special Consideration/Facts:** \_\_\_\_\_

**2. Responsibility for Service.** Subject to the terms and conditions of this Agreement, CSD hereby consents to LACSD’s provision of sewer service to the Property, and LACSD acknowledges and accepts full responsibility for same.

**3. Possible Eventual Service by CSD.** Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that the owner of the Property shall be required to establish service with CSD, including the payment of all costs, fees, and charges, including but not limited to connection fees, improvement fees, installation fees, expansion fees, and any permits, at any time deemed appropriate by CSD in the exercise of its sole discretion. Upon any such determination by CSD, LACSD agrees to reasonably cooperate with CSD to transfer responsibility for service to the Property to CSD, including terminating service to the Property upon written request by CSD to do so.

**4. Statement of Acknowledgement.** The Parties agree that prior to commencement of any service pursuant to this Agreement, the owner of the Property shall be required to execute the Acknowledgement and Consent by Owner(s) on the signature page of this Agreement and the owner of the Property and LACSD shall execute the Statement of Acknowledgement and Agreement Regarding Sewer Service Connection (“**Statement of Acknowledgement**”) in the form attached hereto as Exhibit “A” and incorporated herein by this reference. Thereafter, the Statement of Acknowledgement shall be recorded against the Property.

**5. Effective Date; Term; Termination.** Because this Agreement is an out-of-area service agreement, California Government Code Section 56133 requires that the Agreement be

submitted for approval by SBLAFCO. The effective date of this Agreement is the date on which SBLAFCO approves this Agreement (“**Effective Date**”). The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until terminated (i) by the mutual agreement of the Parties; (ii) by connection of the Property to CSD’s sewer system; or (3) as otherwise specified herein (“the Term”).

**6. Indemnification.**

a. LACSD shall, and does hereby, indemnify and hold harmless CSD from and against any and all claims, demands, liability, actions, causes of action, costs, expenses, attorney’s fees, and obligations arising out of, or in any way connected with, any violation of law, ordinance, or regulation related to LACSD’s service to the Property, and otherwise resulting from the provision of sewer service to the Property from the Effective Date, and for as long as LACSD continues to serve the Property.

b. CSD shall, and does hereby, indemnify and hold harmless LACSD from and against any and all claims, demands, liability, actions, causes of action, costs, expenses, attorney’s fees, and obligations arising out of, or in any way connected with, any violation of law, ordinance, or regulation related to CSD’s service to the Property following any transfer of service responsibility after expiration of the Term.

c. This Section 6 shall survive the termination of this Agreement.

**7. Compliance with Laws.** LACSD shall, at its sole cost and expense, faithfully observe and comply with all requirements of all municipal, state, and federal authorities now in force, or which may hereafter be enacted, pertaining to sewer service to the Property. In the event that LACSD’s provision of sewer service to the Property is not authorized or permitted by any governmental agency with lawful jurisdiction, this Agreement shall be null and void and LACSD shall have no entitlement or obligation to serve the Property.

**8. Governing Law.** This Agreement shall be construed and governed by the laws of the State of California. The Parties agree to the jurisdiction and venue of the Superior Court of San Bernardino County, Central Division to hear any actions arising under, related to, or connected with this Agreement.

**9. Entire Agreement.** This Agreement and the exhibits hereto supersede any prior agreements, negotiations, and communications, oral or written, and contains the entire agreement between the Parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either Party hereto, or by or to an employee, officer, agent or representative of either Party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

**10. Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

**11. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument. In order to expedite matters, electronic signatures may be used in place

of original signatures on this Agreement. The Parties hereto intend to be bound by the signatures on the electronic document, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the use of an electronic signature; provided, however, that the Parties hereby agree to execute and provide to each other original signatures, upon the request made by either Party to the other.

**IN WITNESS WHEREOF**, LACSD and CSD enter into this Agreement effective as of the Effective Date set forth above.

**“LACSD”**

**“CSD”**

Lake Arrowhead Community Services District

Crestline Sanitation District

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGEMENT AND CONSENT  
BY OWNER(S):**

**I/We, the undersigned, are the above-described Property Owner, and I/we hereby acknowledge, consent to, and agree to abide by the terms of the foregoing Agreement for Out of Boundary Sewer Service.**

[Sign:] \_\_\_\_\_

[Sign:] \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit "A"**

Recording Requested By:

When Recorded Return To:

Crestline Sanitation District

P.O. Box 3395

Crestline, CA 92325-3395

APN(s):

(Space Above This Line For Recorder's Use)

**STATEMENT OF ACKNOWLEDGEMENT AND AGREEMENT REGARDING SEWER SERVICE CONNECTION**

This Statement of Acknowledgement and Agreement Regarding Sewer Service Connection ("**Agreement**") dated for reference purposes as of \_\_\_\_\_, 2019, is entered into by and between the undersigned property owner(s) named below ("**Property Owner**") and Lake Arrowhead Community Services District, a community services district located in San Bernardino County, California ("**LACSD**"). Property Owner and LACSD may be referred to herein individually as "Party" and collectively as "Parties".

**RECITALS**

**A.** The real property described below and further described in Schedule 1, attached hereto and incorporated herein ("**Property**") lies within the sewer service boundary of Crestline Sanitation District ("**CSD**"), but outside the boundaries and sphere of influence of LACSD.

**B.** The Property currently includes \_\_\_\_\_ [describe number and total square footage of existing structures] ("**Existing Development**"). Sewer service for the Property is currently provided by a septic system.

**C.** The Property Owner wishes to receive sewer service from LACSD pursuant to Section 56133 of the California Government Code and the policies and procedures of the Local Agency Formation Commission for San Bernardino County ("**SBLAFCO**").

**D.** LACSD is willing to serve the Property on an interim basis in accordance with the terms and conditions of this Agreement until such time as CSD determines in the exercise of its sole discretion that CSD shall provide service to the Property. Pursuant to that certain Agreement for Out of Boundary Sewer Service dated \_\_\_\_\_, 2019 between CSD and LACSD, CSD has consented to interim service by LACSD.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants as well as for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### 1. Service Details.

- a. **Property Owner(s):** APRC INC., a \_\_\_\_\_
- b. **Property Address:** \_\_\_\_\_
- c. **Property APN(s):** \_\_\_\_\_
- d. **Sewer Service Line to be Provided:** \_\_\_\_\_

### 2. **Terms and Conditions Regarding Service by LACSD.**

- a. LACSD hereby agrees to furnish, and Property Owner hereby agrees to accept, sewer service to the Property in accordance with the terms and conditions in this Agreement and LACSD's ordinances, rules, regulations, orders, and policies ("**Rules and Regulations**").
- b. Property Owner shall install and connect a private lateral in accordance with all applicable federal, state, and local statutes and regulations and all of the terms and conditions of this Agreement, including, but not limited to, review and approval of the planning materials for the private lateral, obtaining all inspections, County permits, or other authorizations required to install and connect the private lateral. Property Owner specifically agrees that ownership and maintenance of the private lateral shall be and remain Property Owner's responsibility.
- c. Before Property Owner may submit its plans for the private lateral to the County for the County's approval, Property Owner shall submit such plans to LACSD's district engineer, which he or she may review and reasonably approve or deny within 15 days. Property Owner shall provide at least 48-hours written notice to LACSD prior to commencing any construction activity and prior to making connection to LACSD's sewer system.
- d. The Parties agree that LACSD's sewer service under this Agreement is exclusively limited to sewer service to the Existing Development on the Property. Property Owner understands and agrees that no new construction, development, or subdivision of the Property shall receive sewer service from LACSD under this Agreement. Any sewer service to structures or facilities on the Property other than the Existing Development shall require LACSD and SBLAFCO review and approval prior to the addition/extension of any such services

Exhibit A

- e. Property Owner hereby agrees to and shall timely pay to LACSD any monthly, yearly, or other periodic charges for the services, a sewer connection fee, plan check fee, inspection fee, capacity charge, and any other applicable one-time or recurring fees and charges in effect and paid by the owners of similarly situated real property at the rate(s) established therefor by LACSD, including any applicable penalties or interest lawfully imposed by LACSD (“Fees and Charges”). LACSD reserves the right to collect the Fees and Charges (or any delinquencies thereof) in any lawful manner, including, but not limited to, having them collected on the property tax bill for the Property.
- f. Property Owner will comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and decrees of the United States, the State of California, the County of San Bernardino, LACSD, or any other political subdivision with jurisdiction over the Property, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over LACSD or the Property Owner, including all applicable federal, state, and local occupation, safety and health laws, rules, regulations and standards, applicable state and labor standards, zoning and development standards, LACSD or County permits and approvals, building, plumbing, mechanical and electrical codes, as they apply to work undertaken pursuant to this Agreement, and all other provisions of LACSD and its Rules and Regulations. Without limiting the generality or applicability of the foregoing, Property Owner shall not discharge any waste oil, acid, stormwater, ground water, or any other matter detrimental to LACSD’s sewer system or treatment processes, and shall otherwise comply with LACSD requirements related thereto. Further, if Property Owner makes any such non-permitted discharge, LACSD may perform repairs, mitigation, or maintenance work at the expense of the Property Owner, and the Property Owner agrees to pay for such repair, mitigation, or maintenance work.
- g. Property Owner agrees to indemnify, defend and hold LACSD and its officers, employees, contractors and agents (“Indemnitees”) harmless from and against any and all liability, loss, damage, costs, or expenses (including reasonable attorneys’ fees and court costs) (collectively, “Claims”) arising from or as a result of Property Owner’s failure to comply with any provision of this Agreement, or occasioned wholly or in part by any act or omission of Property Owner or its officers, employees, contractors, subcontractors, and agents arising out of or in connection with this Agreement or the design, construction or installation of the private lateral. In case LACSD shall, without fault, be made a party to any litigation commenced by or against the Property Owner, or any other person, or if LACSD shall, in its sole and reasonable discretion, determine that it must intervene in such litigation to protect its interest hereunder, including, without limitation, the incurring of costs, expenses, and attorneys’ fees, then Property Owner shall protect and hold LACSD harmless by attorneys satisfactory to LACSD and shall pay all costs, expenses and reasonable attorneys’ fees incurred or paid by LACSD in connection with such litigation. LACSD shall have the right to engage its

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own attorneys in connection with any of the provisions of this section or any other provision of this Agreement, including, without limitation, any defense of LACSD or intervention by LACSD, notwithstanding any contrary provisions of the laws or court decisions of the state. Property Owner's obligations under this Section shall survive the termination of this Agreement.

- h. Notwithstanding any other provision of this Agreement, LACSD shall not have any obligation to annex the Property to LACSD, or to provide water or any other service to the Property.
- i. Following connection of the Property to CSD's sewer system in the future, the Property Owner shall promptly reimburse LACSD for any actual costs incurred related to inspections or other work reasonably necessary to terminate the connection to LACSD's sewer system.

### **3. Terms and Conditions Relating to CSD.**

- a. Property Owner hereby acknowledges and agrees that CSD does not guarantee, nor shall it be held responsible, for any wastewater service, or other obligations, during the period of sewer service to the Property by LACSD.
- b. Property Owner hereby acknowledges and agrees that upon any future determination by CSD, in the exercise of its sole discretion, Property Owner shall be required to establish service with CSD, including payment by Property Owner of all related costs, fees, and charges, including but not limited to connection fees, improvement fees, installation fees, expansion fees, and any permits.
- c. Property Owner agrees to indemnify, defend and hold CSD and its officers, employees, contractors and agents harmless from and against any and all Claims arising from or as a result of Property Owner's failure to comply with any provision of this Agreement, or occasioned wholly or in part by any act or omission of Property Owner or its officers, employees, contractors, subcontractors, and agents arising out of or in connection with this Agreement or the design, construction or installation of the private lateral. In case CSD shall, without fault, be made a party to any litigation commenced by or against the Property Owner, or any other person, or if CSD shall, in its sole and reasonable discretion, determine that it must intervene in such litigation to protect its interest hereunder, including, without limitation, the incurring of costs, expenses, and attorneys' fees, then Property Owner shall protect and hold CSD harmless by attorneys satisfactory to CSD and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by CSD in connection with such litigation. CSD shall have the right to engage its own attorneys in connection with any of the provisions of this section or any other provision of this Agreement, including, without limitation, any defense of CSD or intervention by CSD, notwithstanding any contrary provisions of the



laws or court decisions of the state. Property Owner's obligations under this Section shall survive the termination of this Agreement.

#### **4. General Provisions.**

- a. Because this Agreement is an out-of-area service agreement, California Government Code Section 56133 requires that the Agreement be submitted for approval by SBLAFCO. The effective date of this Agreement is the date on which SBLAFCO approves this Agreement ("**Effective Date**").
- b. The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until terminated: (i) by the mutual agreement of the Parties; (ii) by connection of the Property to CSD's sewer system; or (ii) as otherwise specified herein.
- c. Time is of the essence in the performance of this Agreement. Property Owner will be in default under this Agreement if Property Owner fails to comply with any obligation hereunder, has been given a written notice specifying the failure, and: (a) with respect to a default involving the payment of money, fails to cure it within the period of ten (10) days, or (b) with respect to any other type of default, (i) fails to cure it within the period of thirty (30) days, or (ii) commences to cure the default within such period of time, and if the default cannot be cured within the time specified above in (i), thereafter does not diligently proceed to complete the curing of the default. In addition to any other available rights in law or equity, in the event Property Owner defaults under this Agreement, LACSD shall have the right to seek damages against Property Owner, terminate this Agreement, or enjoin such violation or threatened violation in a court of competent jurisdiction.
- d. Nothing contained in this Agreement shall be construed as representing the establishment of any precedent or the formation of any policy by LACSD to supply sewer services or any other LACSD service in the future to any out of boundary territory on the terms and conditions contained herein or on any terms and conditions whatsoever.
- e. This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder. This Agreement does not create any third party beneficiary rights.
- f. All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. No assignment of this Agreement shall be made without the prior written consent of the parties to the Agreement, which consent may not be unreasonably withheld.
- g. All of the benefits and obligations described herein, including any and all covenants, conditions, and restrictions set forth in this Agreement shall be binding on the Parties and their heirs, successors, grantees, transferees and

Exhibit A

permissible assigns and shall run with the land comprising the Property. This Agreement shall be recorded in the Official Records of the County of San Bernardino, State of California.

- h. Whenever performance is required of any party hereunder, that party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, or damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of a party (acts by the performing party causing the situation to be beyond reasonable control excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.
- i. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person or circumstance, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.
- j. This writing constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all oral or written representations or written agreements which may have been entered into between the parties. This Agreement may be cancelled, changed, modified or amended in whole or in part only by a written and recorded instrument executed by the Parties (or their respective successors and assigns).
- k. This Agreement shall be governed by the laws of the State of California. Any legal action concerning or arising out of this Agreement shall be filed in a court of the State of California having jurisdiction of the subject matter, and venue shall be in the County of San Bernardino, California.
- l. The prevailing party in any action or proceeding to enforce or interpret this Agreement or otherwise arising out of or in connection with the subject matter hereof (including, but not limited to, any suit, arbitration, entry of judgment, post-judgment motion or enforcement, appeal, bankruptcy litigation, attachment, or levy) shall be entitled to recover its costs and expenses, including, but not limited to, reasonable attorneys', experts', and consultants' fees and costs.
- m. No waiver by any Party of any default in performance on the part of the another Party, or of any breach or series of breaches of the terms, covenants, or conditions of this Agreement, will constitute a waiver of any subsequent breach or a waiver of any term, covenant, or condition.

Exhibit A

- n. This Agreement may be executed in one or more counterparts, each of which counterparts shall, for all purposes, be deemed an original and all of which counterparts, when taken together, shall constitute one and the same instrument.
- o. The above Recitals are true and correct and fully incorporated in this Agreement.

SIGNATURES ON FOLLOWING PAGE

Exhibit A

**IN WITNESS WHEREOF**, this Statement of Acknowledgement and Agreement Regarding Sewer Service Connection by and among the Property Owner and LACSD has been executed and delivered by as of \_\_\_\_\_, 2019.

**LACSD**

LAKE ARROWHEAD COMMUNITY SERVICES  
DISTRICT,  
a California community services district

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Its: General Manager

**PROPERTY OWNER**

APRC INC., a \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Its:

Exhibit A

**NOTARY ACKNOWLEDGEMENT**

(California All-Purpose Acknowledgment)

This Notary Acknowledgement is attached to a document entitled *Statement of Acknowledgement and Agreement Notice of Condition Regarding Water Service Connection.*

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 \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_,  
(insert name and title of the officer)

personally appeared \_\_\_\_\_, 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 \_\_\_\_\_ (Seal)

**Schedule I**

**“Parcel” Legal Description**

*[Insert from Owner’s Vesting Deed]*

DRAFT

Schedule I