



SOUTH FEATHER WATER & POWER AGENCY

TO: Board of Directors

FROM: Michael Glaze, General Manager

DATE: March 27, 2008

RE: Conveyance Agreement – Hillview Ridge Apartments
Agenda Item for 4/22/08 Board of Directors Meeting

Attached is a standard Conveyance Agreement that has been executed by Caleb Roope, President of Pacific West Communities, Inc. (Eagle, Idaho), developer of the Hillview Ridge Apartment project that is under construction behind the Agency's Oroville headquarters.

Part A, Section 4.A of the Agency's Rules & Regulations specifies the following:

After completion of plans and specifications...and prior to commencement of construction, the developer shall enter into a Conveyance Agreement with the Agency, approved by the Board of Directors, describing the conditions upon which the Agency will accept the developer's completed water system improvements.

Water Division Manager Matt Colwell has approved the construction drawings for the project, and the attached Conveyance Agreement describes the conditions upon which the Agency will accept the project's water system into its maintained system.

The developers have satisfied all conditions necessary for your consideration of the Conveyance Agreement, including payment of plan-check fees.

Your approval of the Conveyance Agreement is recommended as follows:

"I move approval of the Conveyance Agreement with Pacific West Communities, Inc., specifying the terms and conditions, together with those contained in the Agency's Rules and Regulations Governing Water Service, whereby the Agency is willing to accept, upon completion of the water distribution facilities within Gilmore Lane for the Hillview Ridge Apartment project, if it is constructed in accordance with the approved plans and specifications thereof, and in a manner meeting the Agency's approval."

DEVELOPMENT AGREEMENT

THIS AGREEMENT, made and entered into this 25th day of March, 2008, by and between the SOUTH FEATHER WATER AND POWER AGENCY, hereinafter referred to as "Agency" and PACIFIC COAST WEST COMMUNITIES, INC., hereinafter referred to as "Developer".

RECITALS

WHEREAS, Developer has prepared or caused to be prepared, at Developer's sole cost, expense, and responsibility, plans and specifications entitled Hillview Ridge Apartments Onsite Improvements and Gilmore Lane Offsite Improvements, as prepared by The Engineering Group for construction of water-system improvements as shown on said plans for the subject project, to provide treated water to the 57 residential apartment units that will be constructed on APN 013-290-037, a copy of which is attached hereto marked Exhibit "A" and made a part of this Agreement; and,

WHEREAS, the plans and specifications contained in Exhibit "A" have been accepted by the Agency's engineer; and,

WHEREAS, the facilities and lands to be served treated water by said water-system improvements lie within the boundaries of the Agency and are identified in Exhibit "A"; and,

WHEREAS, Developer desires Agency to construct the water-system improvements necessary for the Hillview Ridge Apartment, including the mainline extension within Oro-Quincy Highway and the water system improvements within Gilmore Lane, including the meter and backflow device that will serve the apartment complex; and,

WHEREAS, Developer desires Agency to accept said water-system improvements into Agency's overall water system upon completion; and,

WHEREAS, Agency, subject to the following terms and conditions, as well as those contained in the Agency's Rules and Regulations Governing Water Service (hereinafter referred to as "Rules and Regulations"), is willing to accept said water-system improvements upon completion.

NOW, THEREFORE, the parties mutually agree as follows.

ARTICLE 1 – RECITALS. The recitals contained herein are an integral part of this Agreement.

ARTICLE 2 – PLANS. Attached hereto, marked Exhibit "A" and made a part of this Agreement is one set of plans reduced to 11" x 17", prepared by the Developer's licensed civil engineer for construction of water-system improvements within Gilmore Lane (described hereafter as "Gilmore Lane improvements"). The Agency's acceptance of these plans and specifications does not constitute a warranty or guaranty by Agency of proper design. Agency is responsible for designing and preparing all necessary plans for the water mainline extension within Oro-Quincy Highway, extending from existing Agency facilities at Canyon Highlands

Boulevard to the intersection of Oro-Quincy Highway with the new northerly extension of Gilmore Lane (described hereafter as "Oro-Quincy mainline extension").

ARTICLE 3 - CONNECTION FEES: Attached hereto, marked Exhibit "B" and made a part of this Agreement is Part D of the Rules and Regulations, entitled "Water Rates". Developer understands and agrees to be bound by any Agency alterations, additions, amendments, revisions or modifications to Part D or any other Agency policies, rules, or regulations. All parties hereby agree that Agency is entitled to those connection fees (the sum of the New Service Charge and System Capacity Charge) as specified in Part D. Agency shall collect said connection fees at the time application for water service is made for the apartment complex, even if that application is made prior to completion of all the planned units. It shall be incumbent upon the developer, or any other individual who, at the time service is requested, assumes the role of water service applicant, to pay the then-current connection fees and all other then-applicable fees and charges.

ARTICLE 4 - ENGINEERING AND PLAN-CHECK PERFORMED BY AGENCY. Agency and Developer understand and agree that Developer shall assume the cost and expense of Agency's performance of plan-check services in connection with those plans prepared by Developer's engineer for the Gilmore Lane improvements described in Exhibit "A", attached hereto.

Within 30 days of executing this Agreement, and prior to commencement of construction of any portion of the project's water system improvements, Developer shall pay the sum of \$2,580 to Agency, being 3% of Agency's engineer's estimate of the cost to construct the Gilmore Lane improvements, as described in Exhibit "A", attached hereto. Agency's acceptance of payment for plan-check services performed is not a warranty or guarantee by Agency of proper design or proper specifications of materials for construction. If construction is not commenced within 12 months after approval of the plans and specifications by Agency's engineer, Developer may be required to make additional payments to Agency for plan-check and review services. Such additional payments may not be in excess of 3% of Agency's engineer's estimate.

ARTICLE 5 - HOLD HARMLESS AND INDEMNIFICATION. Developer shall hold Agency and Agency's agents, officers, and employees harmless from any and all claims, lawsuits, acts or omissions arising out of Developer's performance of the terms and conditions of this Agreement. Likewise, Developer shall defend and/or pay the cost of defending and indemnifying Agency together with Agency's agents, employees and officers from all civil proceedings, claims and/or judgments including, but not limited to, payment of all attorney fees and litigation costs.

ARTICLE 6 - BEGINNING OF WORK OR TERMINATION. This Agreement shall terminate and be of no further force or effect at Agency's discretion should Developer fail to deposit with the Agency the estimated cost of construction of the Oro-Quincy mainline extension and Gilmore Lane improvements as shown on Exhibit "A" within six months from the date of this Agreement.

ARTICLE 7 - CONSTRUCTION. The Oro-Quincy mainline extension, and the Gilmore Lane improvements shall be constructed by Agency with its own labor and equipment resources. The cost of said improvements shall be Developer's responsibility, and Agency shall not be responsible for any of the cost of constructing said improvements.

The estimated construction cost for the Oro-Quincy mainline extension is \$38,500 (8" mainline at \$70.00 per lineal foot for approximately 550 feet). Prior to commencement of construction of the Oro-Quincy mainline extension, Developer shall deposit with Agency the full \$38,500 estimated cost of its construction.

The estimated construction cost for the Gilmore Lane improvements from Oro-Quincy Highway up to the Hillview Ridge Apartments (as described in Exhibit A, herein) is \$86,000. Prior to commencement of construction of the Gilmore Lane improvements, Developer shall deposit with Agency the full \$86,000 estimated cost of its construction.

Within 60 days after completion of construction of the Oro-Quincy mainline extension, and within 60 days after completion of the Gilmore Lane improvements, Agency shall provide Developer with an accounting of all respective construction costs. If construction costs are less than the estimate-based deposits paid by Developer, Agency will refund Developer the unused portion of said deposits. If the cost of construction exceeds the estimate-based deposits, Developer shall, within 30 days of receipt of Agency's accounting and demand for payment, reimburse Agency for all costs in excess of the estimate-based deposits paid by Developer.

The approval of the plans and specifications as presented by Developer and as described in Exhibit A, herein, shall not be deemed as a warranty or guarantee by Agency of proper design or proper specifications of materials or construction. Agency specifically relies upon the design and specifications as prepared or caused to be prepared by Developer as being in keeping with the requirements of Agency.

ARTICLE 8 - REIMBURSEMENT FOR FUNDS EXPENDED BY DEVELOPER. Should Developer desire reimbursement for funds expended in the installation and construction of water-system improvements that benefit non-project parcels as provided in the terms and provisions of this Agreement in addition to all other funds expended for the acquisition of rights of way and employment of engineers and contractors for construction, planning, and design of the water-system improvements, then Developer shall request such reimbursement in writing and deliver such writing to the Agency's main business office within 30 days after completion of the water-system improvements by Agency. Agency, upon receiving Developer's written request for reimbursement of funds expended pursuant to the terms and provisions of this Agreement, will then determine if Developer is entitled to reimbursement pursuant to Agency policies, rules, and regulations then in effect. Should Agency determine that Developer may be entitled to reimbursement, then Agency, in its sole discretion, may enter into a reimbursement agreement with Developer that shall provide for the method and manner by which Developer would achieve reimbursement of funds expended for the construction and installation of the water-system improvements. Should Agency, in its discretion, determine to enter into a reimbursement agreement with Developer, such agreement shall be prepared and entered into prior to Developer's application for water service as set forth in Article 9 herein. The reimbursement agreement shall provide for the method and manner by which Agency may assist Developer in obtaining reimbursement of a portion of funds expended by Developer for the water-system improvements constructed pursuant to the terms of this Agreement.

ARTICLE 9 - APPLICATION FOR WATER. No water shall be delivered to or conveyed by or through the water-system improvements shown on Exhibit "A", other than for testing purposes and construction purposes authorized by Agency's General Manager, until said water system is conveyed to Agency, formally accepted by Agency, and proper applications for water service have been filed with Agency and approved.

ARTICLE 10 - OBLIGATION FOR PIPELINES AND/OR FACILITIES. Agency shall be under no obligation to provide additional pipelines and/or facilities in order to serve water to Developer's project. Upon completion of construction of the water-system improvements by Agency, it shall become the sole property of Agency and shall be used and operated at Agency's sole discretion.

ARTICLE 11 - RULES AND REGULATIONS. Upon completion of construction by Agency of the water-system improvements, Developer, its successors and assigns, shall be subject to and shall comply with all of the rules and regulations of Agency and shall pay the water rates, tolls and charges as may be levied and/or established by Agency's Board of Directors from time to time.

ARTICLE 12 - ASSIGNMENT. No transfer or assignment may be made by Developer of this Agreement or any part or interest of law unless such transfer or assignment is approved in writing by Agency, provided further that Agency shall not unreasonably withhold consent to transfer or assign. In the event of such transfer or assignment, Agency may, at its sole option and in addition to any other remedy that it may have, elect to terminate this Agreement.

ARTICLE 13 - NOTICES. The mailing addresses of Agency and Developer for purposes of giving any notice required pursuant to this Agreement are as follows:

AGENCY
Michael C. Glaze, General Manager
South Feather Water and Power Agency
2310 Oro-Quincy Highway
Oroville, California 95966

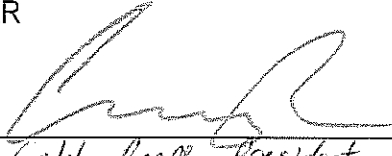
DEVELOPER
Don Slattery, Project Manager
Pacific Coast West Communities, Inc.
430 E. State Street, Suite 100
Eagle, Idaho 83616

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SOUTH FEATHER WATER AND POWER AGENCY

By _____
Michael C. Glaze, General Manager/Secretary

DEVELOPER

By  _____
Caleb Roop, President

By _____

EXHIBIT A
DEVELOPER'S IMPROVEMENT PLANS

EXHIBIT B

Part D – Water Rates¹

Potable Water-

Inactive Account Standby Charge (per month)	\$5 ²
Service Charge (per month)	\$15 ³
Multi-Family Residential Units (Apartments) Service Charge	\$7.90 ⁴
(per occupied unit per month)	
Rates-of-Use (in addition to Service Charge):	
First 100 Units (10,000 cubic feet)	\$0.64/unit
After First 100 Units (over 10,000 cubic feet)	\$0.25/unit
Oversized Meter Charge (in addition to Service Charge; not applicable to mobile home parks, apartment complexes, duplexes, multiple commercial units, etc. ⁵):	

<u>Meter Size</u>	<u>Monthly Charge</u>
1"	\$6.00
1½"	\$16.00
2"	\$20.50
3"	\$50.00
4"	\$72.50
6"	\$105.00

Fees & Charges⁶

New Service Charge (installation estimates, processing, etc.)	\$40 ⁷
Residential Meter/Backflow Fee	\$928 ⁸
Development Plan Check (of Engineer's Estimate - potable water)	3% ea.
Development Inspection Fee (of Engineer's Estimate - potable water)	3% ea. ⁹
Non-Standard Service ¹⁰	
Temporary Building-Construction Service (6 month max.)	\$10/month ¹¹
Bulk-Service Meter Deposit	\$650 ¹²
Water-Truck or –Container Backflow Inspection Fee	\$30 ¹³
Bulk-Service Meter Charge	\$20/month ¹⁴
Bulk-Service Volume-of-Usage Rage	\$1.50/unit ¹⁵

1 Originally affected 2/13/90, "Part D" added 6/26/01.
2 Effective 3/26/96. Applicable to parcels/lots that have an existing service line and are not receiving service ('inactive account'). This charge may be waived for parcels/lots with inactive accounts, if the owner executes a statement (1) authorizing the Agency to disconnect the service line from the main in the future event of a leak or maintenance problem, and (2) acknowledging financial responsibility for reconnecting or replacing (at the Agency's discretion) the service line if and after it is disconnected.
3 Authorized 2/23/93; effective 3/1/93; multi-family residential units excluded as of 2/23/99.
4 Effective 2/23/99.
5 Effective 2/23/99.
6 Originally affected 2/13/90
7 Authorized 6/23/92; effective 7/1/92; renamed 2/27/01
8 Effective 9/26/06, charged whenever water service is requested for a parcel with an existing service line and meter set. Payment in full for installation of ¾" residential radio-read meter and ¾" backflow prevention device. Fee to be increased annually, commencing January 1, 2008 in accordance with Engineering News Record's National Construction Cost Index, subject to suspension on a year-by-year basis by the Board of Directors.
9 Name amended 2/27/01
10 Renamed 11/27/01
11 Renamed 11/27/01
12 Added 11/27/01
13 Added 11/27/01
14 Added 11/27/01
15 Added 11/27/01

Minimum Bulk-Service Meter Damage Repair Fee.....	\$25 ¹⁶
Bulk Raw-Water Charge (2,500 gal. max.).....	\$5/load ¹⁷
Filling Station Charge (2,500 gal. max.).....	\$5/load ¹⁸
Flow Test Fee \$50/test ¹⁹	
Returned Check Fee (returned by bank).....	\$20/check ²⁰
Escrow Information Charge.....	\$5/order
Meter Tampering Fee (resetting, damaging, cutting locks, etc.)	
First Incident.....	\$25 + repair costs ²¹
Second and Subsequent Incidents.....	\$250 + repair costs ²²
Delinquent Penalty.....	1½%/month penalty after 30 days ²³
Shutoff Notice Service Fee.....	\$10 ²⁴
Meter Lock Service Fee.....	\$40 ²⁵
Quitclaim Deed Processing Fee.....	\$25
Meter Check Fee:	
5/8" Meter.....	\$45 prepaid ²⁶
Meters Over 5/8".....	per estimate, prepaid ²⁷

SFWPA will check accuracy of water user's meter at user's request. If meter is within 2% accurate, SFWPA will retain fee. If inaccuracy exceeds 2% fast, fee will be returned. Adjustments for any over-charge will be made on next billing, with adjustment not to exceed three (3) months.

System Capacity Charges²⁸

Miners Ranch Treatment Plant:

<u>Meter Size</u>	<u>Capacity Charges</u>	<u>GPM</u>	<u>Plant Capacity</u>
5/8"	\$3,555	20	0.206%
1"	\$8,884	50	0.514%
1½"	\$17,771	100	1.029%
2"	\$28,437	160	1.646%
3"	\$56,863	320	3.291%
4"	\$88,850	500	5.143%
6"	\$177,702	1,000.....	10.286%
8"	\$426,482	2,400.....	24.686%
10"	\$675,263	3,800.....	39.086%
12"	\$888,504	5,000.....	51.429%

Larger meters will require evaluation of peak flows needed for service. Applicant will be responsible for providing required data. Based on this information, SFWPA will determine the capacity charge.

16 Added 11/27/01

17 Added 11/27/01

18 Added 11/27/01

19 Effective 8/26/97

20 Authorized 3/23/93; effective 4/1/93; amended 2/27/01

21 Effective 2/27/01

22 Effective 8/26/97

23 Effective 2/27/01

24 Authorized 10/27/98

25 Authorized 3/23/93; effective 4/1/93; amended 2/27/01

26 Authorized 6/23/92; effective 7/1/92

27 Authorized 6/23/92; effective 7/1/92

28 Effective 10/1/91, amended 3/23/99 (increases annually in accordance with Engineering News Record's National Construction Cost Index), and 1/25/2000