

**RURAL WATER DISTRICT NO. 7, JOHNSON COUNTY, KANSAS**  
**WATER MAIN EXTENSION AGREEMENT**

This Water Main Extension Agreement (“Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter called Applicant, and Rural Water District No. 7, Johnson County, Kansas, hereinafter called the District.

WITNESSETH:

WHEREAS, Applicant has previously submitted to the District, a completed Petition for Water Main Extension and Engineering Study (hereinafter “Application”), requesting that a preliminary engineering study be prepared by the District; and

WHEREAS, the District prepared or caused to be prepared, such engineering study and submitted such study and Applicant’s Application to the District’s Board of Directors; and

WHEREAS, the District’s Board of Directors has approved Applicant’s Application and the District has informed the Applicant of any conditions placed on the Application by the Board; and

WHEREAS, Applicant desires to proceed with the proposed water main extension as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto promise and agree as follows:

1. **PROJECT AND PROPERTY SERVED.** The parties hereby agree to the terms contained in this Agreement relating to the construction of a water main extension (“Water Main Extension”), to serve the following described property (“Property”):

[LEGAL DESCRIPTION OF PROPERTY]

2. **PROVISIONS APPLICABLE WHEN APPLICANT PROVIDES DESIGN AND CONSTRUCTION SERVICES.**

When Applicant chooses to contract for and oversee the construction of the Water Main Extension, the following shall apply:

- A. Applicant will, simultaneously with the execution and delivery to the District of this Agreement, pay to the District, the amount of \$ \_\_\_\_\_, which is 10% of the \$ \_\_\_\_\_ Probable Project Cost of the Water Main Extension. The Probable Project Cost is the amount estimated by the District to be the construction, engineering and inspection costs of the Water Main Extension. Such 10% of the Probable Project Cost shall be to compensate the District for the following, all of which shall collectively be referred to

herein as the "Expenses": engineering expenses, legal expenses, inspection expenses, printing expenses and other costs to be incurred by the District that are related to the Water Main Extension.

- B. If the actual amount spent by the District for Expenses is less than the funds deposited by Applicant, the District shall, within 45 days after completion of the project, pay to the Applicant the difference in such amounts. If the actual amount spent by the District for Expenses is greater than the funds deposited by Applicant, Applicant shall, within 45 days after completion of the project, pay to the District the difference in such amounts.
- C. Following the signing of this Agreement, the District will inform Applicant of the time period in which Applicant will prepare or cause to be prepared, engineering and design drawings and reports, (hereinafter "Documents") for the Water Main Extension. Applicant will then prepare the Documents and submit both digital and hard copies of the same, in a format acceptable to the District, to the District for consideration. The Documents will be prepared by a registered professional engineer having a valid Kansas registration and such engineer's seal shall be affixed to the appropriate Documents. Such engineer must have appropriate experience in the design and installation of water mains. The District will provide a review of the design drawings and will send to Applicant all changes, (in a "redlined" document), necessary to achieve compliance with the District's Construction Standards. The Applicant's engineer will make such changes and provide appropriate copies of the final drawings to the District and Applicant's contractor.
- D. Within a reasonable time after Applicant has submitted the Documents to the District, Applicant will proceed with due diligence to obtain necessary easements for the construction of the Water Main Extension. The location and width of such easements will be as mutually agreed between Applicant and the District. Construction of the Water Main Extension shall not begin until all easements are obtained and recorded copies are provided to the District. Applicant will, to the extent it owns land through which the Water Main Extension will run, grant or obtain all water line easements needed for installation of the Water Main Extension or any future maintenance of the Water Main Extension. Applicant will also grant easements to the District within any property Applicant owns, and as the District deems necessary, for the District to provide adequate corridors for the operation and maintenance of the District's water system.
- E. If and when the Documents are approved by the District, they will be presented to the Kansas Department of Health and Environment (hereinafter "KDHE") by a Kansas licensed professional engineer for review and approval. Applicant's engineer will make any changes to the Documents that are required by KDHE and will submit revised Documents to KDHE as may be required.
- F. If and when the Documents are approved by KDHE, Applicant will proceed to select a contractor ("Contractor") to construct the Water Main Extension. Such Contractor may be selected through a competitive bidding process or

otherwise, as determined by Applicant. The District, however, must approve any Contractor chosen by Applicant and the District has the unequivocal right to disapprove any Contractor chosen by Applicant.

- G. Once the Contractor has been chosen by Applicant and approved by the District, Applicant shall provide Contractor with a construction contract acceptable to the District. The construction contract will contain provisions allowing the District to issue change orders to the contract; which will allow additions or deletions to the work to be performed under the contract, as the District deems necessary. (If a change order is necessary to provide integrity to the proposed construction, the Applicant will be responsible for the expense of such change order. If a change order is issued to provide the District improved quantity or flow, the District will be responsible for such expense.) Applicant shall also provide Contractor with bond, permit and insurance forms and requirements acceptable to the District. The contract shall be signed by Contractor, the bond, permit and insurance forms shall be completed by Contractor and the above-named requirements shall be met by Contractor. (Bond forms will include a copy of a performance bond from the Contractor in favor of the Applicant and a two-year maintenance bond from the Contractor in favor of the District. Insurance policies held by the contractor shall name the District as an additional insured for the Water Main Extension project.) The signed contract and completed bond, permit and insurance forms shall be returned to the District and approved by the District before construction begins. In addition, Contractor shall submit four copies of shop drawings to the District and such drawings must be approved by the District before construction begins.
- H. A pre-construction conference between the District, Applicant, Contractor, utility companies and other interested parties shall also be held before construction begins. Following successful completion of such conference, and receipt of authorization to proceed from the District, Applicant shall proceed with due diligence to have the Contractor construct the Water Main Extension. Both Applicant and the Contractor shall comply with all District Rules and Regulations, Policies and Procedures, Bidding and Construction Standards and any other similar rules, policies, procedures, standards or the like, enacted by the District and relating to such construction. Such compliance shall include, but not be limited to the following: i) allowing the District and its representatives reasonable access to all construction sites and activities; and ii) coordinating with the District for inspection during water main installation.
- I. During construction, the District or its representative will inspect the construction and installation of the Water Main Extension. The Contractor will maintain current field records of work performed and will note any changes to project design by notation on drawings kept at the job site. The District will also maintain a set of drawings and will record notes of field changes performed at the job site. Both the Contractor's drawings and the District's drawings will be submitted to the Applicant's engineer for preparation of "Conformed to Construction Records" drawings for the District's records. After review of the same by the District, the Applicant's engineer will make any required changes and submit to the District, one set

of "reproducibles" and two sets of prints. The Applicant's engineer will also provide the District with computer drawing files of the project in an acceptable file format.

- J. Applicant shall pay the Contractor all amounts due the Contractor for such construction and shall indemnify and hold the District harmless for and against any claims made by the Contractor against the District for amounts not paid to the Contractor.
- K. Upon completion of the construction of the Water Main Extension, Applicant shall deliver or cause to be delivered to the District a final release of liens executed by the Contractor and any primary sub-contractor(s) (i.e., sub-contractors who construct in excess of \$10,000.00 of materials), releasing all mechanics' and materialmens' liens which could arise out of or be filed in connection with the construction of the Water Main Extension. Such release shall provide that all labor, services, material and equipment for which a lien could be filed, have been paid for and that the payrolls, material and equipment bills, and any other indebtedness connected with the Water Main Extension have been paid or otherwise satisfied.
- L. If, before a construction contract award is made, the Applicant wishes to abandon the project and so notifies the District in writing, and if the Applicant's deposited funds exceed the money expended by the District for Expenses, the District shall forthwith repay to Applicant the difference between such deposited funds and the amount of money expended by the District for Expenses. If the Applicant's deposited funds are less than the amount of money expended by the District for Expenses, Applicant shall forthwith pay to the District, the difference between its deposited funds and such Expenses.

**3. PROVISIONS APPLICABLE WHEN THE DISTRICT PROVIDES DESIGN AND CONSTRUCTION SERVICES.**

In the event Applicant does *not* wish to contract for and oversee the construction of the Water Main Extension, the District will do so and the following shall apply:

- A. Applicant will simultaneously with the execution and delivery to the District of this Agreement, pay to the District, the amount of \$\_\_\_\_\_, which is 25% of the \$\_\_\_\_\_ Probable Project Cost.
- B. Within a reasonable time after the signing of this Agreement, such time being a time that is appropriate under the circumstances, the District will prepare the Documents for the Water Main Extension.
- C. Within a reasonable time after the District has finished preparing the Documents, Applicant will proceed with due diligence to obtain necessary easements for the construction of the Water Main Extension. The location and width of such easements will be as mutually agreed

between Applicant and the District. Construction of the Water Main Extension shall not begin until all easements are obtained and recorded copies are provided to the District. Applicant will, to the extent it owns land through which the Water Main Extension will run, grant or obtain all water line easements needed for installation of the Water Main Extension or any future maintenance of the Water Main Extension. Applicant will also grant easements to the District within any property Applicant owns, and as the District deems necessary, for the District to provide adequate corridors for the operation and maintenance of the District's water system.

- D. Within a reasonable time after the District has finished preparing the Documents, it will submit them to the Kansas Department of Health and Environment (hereinafter "KDHE") for review and approval.
- E. If and when the Documents are approved by KDHE, Applicant will deposit with the District, the remaining portion of the Probable Project Cost. If at any time, the District determines that the Probable Project Cost will not be sufficient to pay for the total of all actual project costs (hereinafter "Total Project Cost"), Applicant shall also promptly deposit with the District the difference between the deposited funds and the expected Total Project Cost. All amounts deposited by Applicant shall be retained by the District, without interest, but subject to reimbursement as hereinafter provided. Total Project Cost shall include the total costs incurred by the District for the project and shall include, but not be limited to, the costs of the following: obtaining easements, construction materials and costs, equipment use, supervision, construction observation, engineering, insurance, legal expenses, bonds, permits, accounting and all overhead attributable to the project.
- F. After Applicant deposits the remaining portion of the Probable Project Cost, the District will proceed to select a Contractor to construct the Water Main Extension. Such Contractor may be selected through a competitive bidding process or otherwise, as determined by the District in its reasonable discretion.
- G. If, before a construction contract award is made, the Applicant wishes to abandon the project and so notifies the District in writing not later than five (5) business days after the bid opening, and if the Applicant's deposited funds exceed the money expended by the District for Expenses, the District shall forthwith repay to Applicant the difference between such deposited funds and the amount of money expended by the District for Expenses. If the Applicant's deposited funds are less than the amount of money expended by the District for Expenses, Applicant shall forthwith repay to the District, the difference between its deposited funds and such Expenses.
- H. The District will proceed with due diligence to have the Contractor construct the Water Main Extension.
- I. The District will make periodic and final payments to the Contractor from the amounts deposited with the District by Applicant. If, after completion of the

Water Main Extension and determination of the Total Project Cost, the Total Project cost is less than the funds deposited by Applicant, the District shall forthwith repay to the Applicant the difference between the Total Project Cost and the total amount of funds deposited by Applicant.

J. If, after completion of the Water Main Extension and determination of the Total Project Cost, the Total Project Cost is greater than the funds deposited by Applicant, the Applicant shall forthwith pay to the District the difference between the Total Project Cost and the total amount of funds deposited by Applicant.

4. **DISTRICT'S RIGHT TO WATER MAIN EXTENSION.** Once installed, the Water Main Extension and all engineering and construction documents related thereto, shall be the property of the District, free of any interest of the Applicant and free of any liens and encumbrances whatsoever, and thereafter the District shall have sole responsibility for the same. Provided, however, that Contractor and/or Applicant shall remain responsible for their obligations named in any applicable performance bonds. The District shall have the right to repair or replace the Water Main Extension at any time. The District shall have the right to extend any main installed pursuant to the terms of this Agreement, and to extend any lines connected to such lines, in or to other lands, streets, or avenues and Applicant or any customer shall not by reason thereof, be entitled to any repayment.
5. **DESIGN AND INSTALLATION.** All decisions to be made in connection with the manner of design and installation of the Water Main Extension, the type of materials to be used, and the maintenance thereof shall be and shall so remain at the exclusive discretion and under the sole control of the District.
6. **PRIVATE WATER DISTRIBUTION AND SERVICE LINES.** Applicant is responsible for all installation and costs of installing all private water distribution lines and service lines required to serve land within the Property.
7. **AGREEMENT SUBJECT TO BYLAWS, ETC.** This agreement is subject to the District's By-laws, Rules and Regulations, and all District Policies and Procedures and all other similar rules, policies, procedures, standards or the like, including those named herein, and shall be interpreted in accordance with the laws of the State of Kansas.
8. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto with respect to the matters contained in this Agreement. Any and all previous agreements written or oral, express or implied between the parties hereto or on their behalf relating to such matters are hereby terminated and cancelled and each of the parties hereto hereby releases and forever discharges the other of and from all manner of actions, causes of action, claims and demands whatsoever under or in respect of any such agreement.
9. **AMENDMENT.** This Agreement may be altered, modified or amended only by a written instrument, duly executed by both parties and stating that the alteration, modification or amendment is an addition to and subject to this Agreement.

10. **WAIVER.** No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
11. **ASSIGNMENT.** This Agreement shall not be assigned by either party without the express, written consent of the other party. Provided, however, that the District may assign its interest in this Agreement to any governmental agency which provides financing to the District.

IN WITNESS WHEREOF, the Applicant and the District subscribe their signatures hereto the day and year first above written.

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
BY: Printed Name and Title

RURAL WATER DISTRICT NO. 7, JOHNSON COUNTY, KANSAS

Attest:

\_\_\_\_\_  
Secretary

BY: \_\_\_\_\_  
Chairman