

**EXTRATERRITORIAL WASTEWATER SERVICE AGREEMENT  
CEDAR AVENUE TECHNOLOGY PARK  
AT CEDAR AVENUE, ORANGE STREET AND VINE STREET  
APN NUMBER 0253-211-56.**

This **EXTRATERRITORIAL WASTEWATER SERVICE AGREEMENT** (“Agreement”) is made and entered into this 25th day of September, 2018 (the “Commencement Date”), between AIGGRE Cedar Avenue Investor, LLC, a California limited liability company (“Owner”) and the City of Rialto, a California municipal corporation (“Rialto”) with reference to the following facts:

**WHEREAS**, Owner represents they hold lawful title of a commercial parcel identified by Assessor’s Parcel Number 0253-211-56. located at 18750 Orange Street, Bloomington, CA 92316, at Cedar Avenue, Orange Street and Vine Street, south of the I-10 freeway and as identified on **Exhibit “A”** and shown on **Exhibit “B”**, attached hereto and made a part hereof (the “Property”); said Property is located outside the incorporated boundaries of Rialto and within in the unincorporated area of Bloomington, within San Bernardino County; and

**WHEREAS**, Owner has received project approvals from the County of San Bernardino and intends to develop the Property with an industrial project consisting of approximately 184,520 square feet; and

**WHEREAS**, other wastewater collection systems are unavailable; and Owner desires to connect the Property to Rialto’s wastewater collection system for the general health safety and welfare; and

**WHEREAS**, Rialto and the Owner acknowledge the need to construct an extension of the sewer main from Larch Avenue that will serve the property identified above for the general health safety and welfare; and

**WHEREAS**, Owner desires to and in accordance with the terms of this Agreement has committed to or will commit to provide, at Owner’s cost, a wastewater lateral with connections from the Owner’s private building drain to Rialto’s wastewater main, including all road cuts, patching, permits and inspections; and

**WHEREAS**, Rialto owns and operates the wastewater collection main running along and within Larch Avenue which is part of Rialto’s wastewater collection system; and any other related and/or additional facilities used for the conveyance, treatment or disposal of wastewater originating in Rialto and areas located outside the incorporated boundaries of Rialto approved by Rialto for extraterritorial wastewater service (the “Service Area”), and any extensions, expansions or replacements of any of the above being hereinafter referred to as the “Rialto Disposal System”; and

**WHEREAS**, Rialto has defined and established by Council Resolution a policy and administrative guidelines to provide for wastewater service outside Rialto’s corporate boundaries; and has agreed to provide wastewater conveyance, treatment and disposal services for wastewater originating in the Service Area through the Rialto Disposal System on the terms and conditions contained herein; and

**WHEREAS**, in order to accommodate the conveyance, treatment and disposal of wastewater originating in the Service Area, Rialto has agreed to maintain and/or construct the Rialto Disposal System and such related and/or additional facilities as may be necessary to adequately provide such service for the Service Area in perpetuity; and

**WHEREAS**, in consideration of Rialto's agreement to provide adequate conveyance, treatment and disposal services to the Service Area, Owner has agreed to make payments described herein with respect to wastewater from the Service Area discharged into the Rialto Disposal System (such wastewater being "Service Area Wastewater") calculated at one point three (1.3) times the monthly rates charged by Rialto to customers within Rialto, all on terms and conditions more fully set forth herein.

Now, therefore, in consideration of the foregoing and subject to the terms and conditions contained herein, the parties hereto hereby agree as follows:

## **ARTICLE I. RIGHTS AND OBLIGATIONS**

**Section 1.01 Recitals Incorporated.** The recitals set forth above are true and correct and are hereby incorporated into and made a part of this agreement.

**Section 1.02 Delivery and Receipt of Wastewater.** At all times, except as may be restricted by unforeseen emergencies, Owner shall have the right to deliver to the Rialto Disposal System normal strength domestic wastewater, and Rialto shall have the obligation to receive all such wastewater into the Rialto Disposal System and to convey, treat and dispose of such wastewater.

**Section 1.03 Disposal of Service Area Wastewater; Ownership and Reclamation of Effluent.** The cost of constructing, expanding, extending, maintaining and operating the Rialto Disposal System and of conveying, treating and disposing of the Service Area Wastewater (including without limitation and effluent of by-product thereof) after delivery of such Service Area Wastewater to the Rialto Disposal System shall be the responsibility solely of Rialto, and Owner shall have no responsibility for, and shall not be liable to Rialto or any third party for, any costs or other expenses incurred by Rialto in connection with or related thereto, other than payment of the Wastewater User Fees set forth in Section 3.01, provided Owner complies with all aspects of Rialto's Municipal Code, ordinances and policies, incorporated herein by reference, as they relate to wastewater discharge for a Group II Commercial customer.

**Section 1.04 Ownership of Service Area Wastewater.** It is the intention and agreement of the parties that Rialto shall have total ownership and control of all Service Area Wastewater delivered to the Rialto Disposal System. Owner warrants that Owner shall comply with all aspects of the Rialto Municipal Code, Title 12 – Public Utilities, and Administrative Policies.

**Section 1.05 Connection Points.** Owner is authorized one (1) connection point to the Rialto Disposal System. Such connection point shall be located at a point mutually acceptable to the Owner, City Engineer and Rialto's Building Official. Construction of laterals and connection points shall be in conformance with the specifications and details set forth in Rialto's Utility Design Standards, Building Safety Codes and other applicable laws and regulations as may apply. Maintenance of the lateral including the connection point within the

right-of-way shall be the responsibility solely of the Owner. All construction work and maintenance shall be performed under permit from, inspected, and approved by Rialto.

## **ARTICLE II. PAYMENTS FOR CONSTRUCTION AND EXPANSION OF RIALTO DISPOSAL SYSTEM**

**Section 2.01 Initial Special Service Availability Payment.** In consideration of Rialto's agreements contained herein, Owner shall, promptly upon the effective date of this agreement, pay to Rialto a service connection fee for treatment, collections and related fees in the amount of **\$135,120.31** (the "Development Impact Fees") in accordance with the adopted fee schedule, Resolution 6069, approved by the Rialto City Council/Rialto Utility Authority on December 27, 2011. Any additional fees related to plan check(s), inspection or not named in this agreement shall be the responsibility of the Owner.

**Section 2.02 System Connection.** Owner agrees to design and construct the sewer line from the current terminus point on Larch Avenue to the Owner's facility at 18750 Orange Street, Bloomington, CA 92316 at their expense.

## **ARTICLE III. WASTEWATER USER CHARGES**

**Section 3.01 Monthly Wastewater User Fees.** After the Commencement Date, Owner shall pay to Rialto for the provision of wastewater conveyance, treatment and disposal services a wastewater fee calculated at a rate equal to one point three (1.3) times the rate then charged by Rialto to properties located within the incorporated boundaries of Rialto, in accordance with Chapter 12.08.200 of the Rialto Municipal Code, or as may be amended from time to time.

**Section 3.02 Inspection.** Rialto shall have the right to inspect and examine the Sewer System at any time, including during construction and operation of any portion of the Sewer System within the Service Area.

## **ARTICLE IV. MONITORING OF SERVICE AREA WASTEWATER**

**Section 4.01 Pre-Treatment Program; Quality Specifications and Standards.** Pretreatment of wastewater from the Service Area may not be required under this Agreement, provided the Owner complies with all aspects of the Rialto Municipal Code, Title 12 – Public Utilities, and Administrative Policies. Rialto shall have the right to monitor or restrict the discharge of wastewater to the Rialto Disposal System if Rialto suspects or discovers the Owner has discharged prohibited substances, as described in the Rialto Municipal Code, into the Collection System, or violated other provisions of said Municipal Code. Rialto may, at its option, allow discharge to resume with the Owner's installation, and proper maintenance of, an approved pretreatment device or system.

## **ARTICLE V. MISCELLANEOUS**

**Section 5.01 Effective Date; Term.** This Agreement shall become effective when the Agreement has been duly executed by both parties hereto, and shall be binding upon the heirs, assigns and successors of the parties. The Agreement shall continue in perpetuity, or until such time as the Property is annexed into the corporate boundaries of Rialto. At such

time, the Owner shall have such rights, privileges and duties, including fees and rates, as all other Rialto citizens for the then current wastewater disposal classification.

**Section 5.02 Amendment, Etc.** No amendment or waiver of any provisions of this Agreement or consent to any departure from its terms shall be effective unless the same shall be in writing and signed by the parties hereto.

**Section 5.03 Notices.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by pre-paid First Class U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) three (3) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice, request, demand, direction, or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

If to City:                   City of Rialto  
                                  150 S. Palm Ave.  
                                  Rialto, CA 92376  
                                  Attn: City Administrator  
                                  Tel: (909) 820-2525  
                                  Fax: (909) 820-2527

With copy to:               Aleshire & Wynder, LLP  
                                  18881 Von Karman Ave., Suite 1700  
                                  Irvine, CA 92612  
                                  Attn: Fred Galante, City Attorney  
                                  Tel: (949) 223-1170  
                                  Fax: (949) 223-1180

If to Owner:                AIGGRE Cedar Avenue Investor, LLC  
                                  1944 North Tustin Street, Suite 122,  
                                  Orange, CA 92865  
                                  Attn: Tim Howard  
                                  Tel: (714) 272-5318  
                                  Fax: Not Available

With copy to:               Not Available

Either Party may change its address by notifying the other Party of the change of address in writing.

**Section 5.04 Costs and Expense of Enforcement.** Should litigation be necessary to enforce any term or provision of this Agreement, the prevailing party shall be entitled to collect all litigation costs and attorney's fees incurred by the prevailing party.

**Section 5.05 Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

**Section 5.06 Indemnification.** Owner hereto agrees to indemnify, defend, save and hold harmless Rialto and its officers, agents and employees from and against all liability, claims, damages, losses and expense of any nature whatsoever, including but not limited to bodily injury, death, personal injury, property damages and attorney's fees, arising directly or indirectly from any acts or omissions of such indemnified party or its officers, agents or employees in connection with this Agreement.

**Section 5.07 Partial Invalidity.** The invalidity of any provision of this Agreement will not affect the validity of the remainder hereof.

**Section 5.08 Execution In Counterparts.** This Agreement may be executed in counterparts, all of which taken together shall constitute an original hereof.

**Section 5.09 Time of Essence.** Time is of the essence in the fulfillment by the parties hereto of their obligations under this Agreement.

**Section 5.11 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**\* \* \* \* SIGNATURES ON NEXT PAGE \* \* \* \***

**IN WITNESS WHEREOF**, Rialto and Owner have caused this Agreement to be executed the day and year first above written.

**CITY:**

CITY OF RIALTO, a municipal corporation

By: \_\_\_\_\_  
Deborah Robertson, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Barbara A. McGee, City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Fred Galante, City Attorney

**OWNER:**

**AIGGRE CEDAR AVENUE  
INVESTOR, LLC**

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

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

Title: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

**Two signatures are required if a corporation.**

## **EXHIBIT "A"**

That certain real property located in the unincorporated area of San Bernardino County identified as Cedar Avenue Technology Park, located at Cedar Avenue, Vine Street and Vine Street, south of the I-10 freeway with the address of 18750 Orange Street, Bloomington, CA 92316, and the following APN Number: 0253-211-56.

# EXHIBIT "B"

THIS MAP IS FOR THE PURPOSE  
OF AD VALOREM TAXATION ONLY.



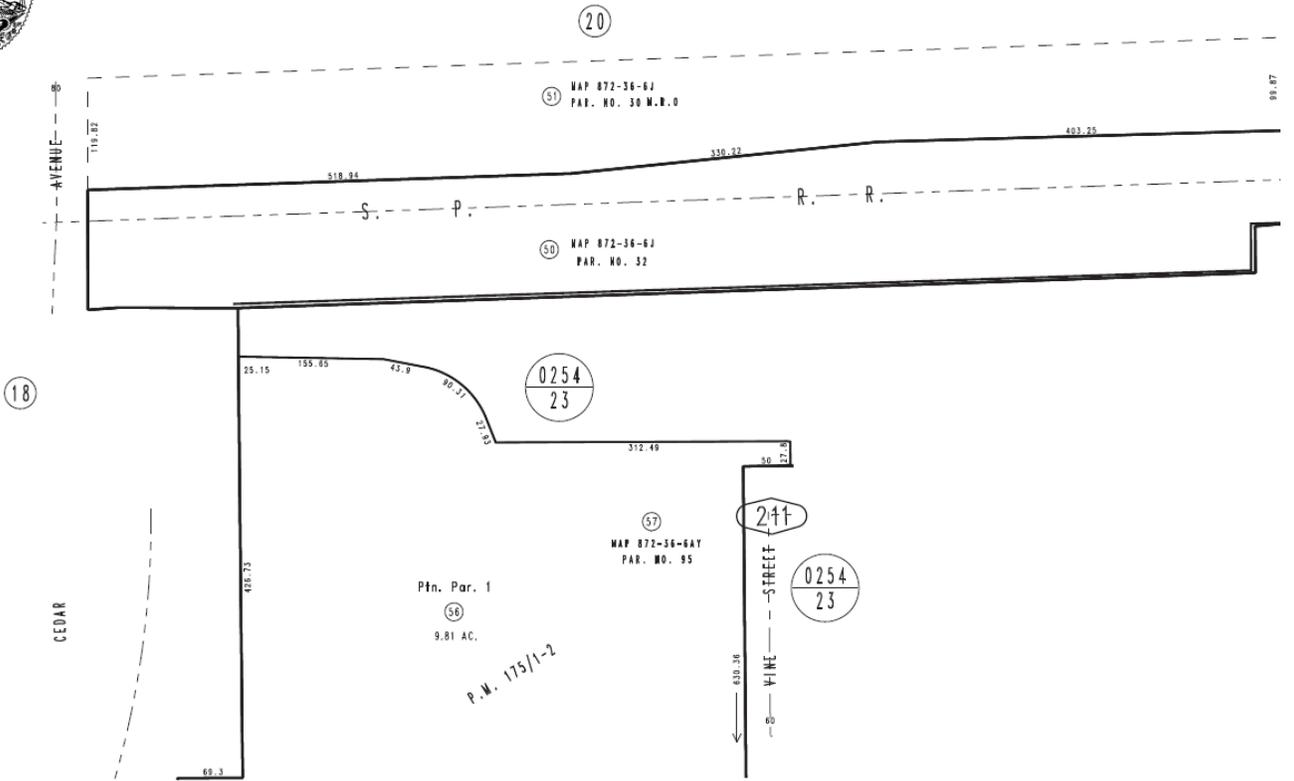
Ptn. Townsite of Bloomington  
M.B. 12/34

Colton Joint Unified 0  
Tax Rate Area  
64027

STATE

£

HIGHWAY



18

0254  
23

24

0254  
23

22

January 2004

Pin. Parcel Map No. 14352, P.W. 175/1-2

Assessor's Map  
Book 0253 Page 21  
San Bernardino County