

**AGREEMENT  
FOR THE CONSTRUCTION OF WATER SYSTEM IMPROVEMENTS**

This agreement, made and entered into by and between the City of Menifee, State of California, hereinafter called City, and KB HOME Coastal Inc., a California corporation hereinafter called Developer.

**WITNESSETH:**

FIRST: Developer, for and in consideration of the approval by City of the final map of that certain land division known as Tract 30142-2, hereby agrees, at Developer's own cost and expense, to construct or cause to have constructed, within **24** months from the date this agreement is executed, in a good and workmanlike manner, a water distribution system, complete with all necessary pipes, valves, fire hydrants, connections and appurtenances necessary to the satisfactory operation of said distribution system, and, further, to extend main or mains from the existing supply system maintained and operated by Eastern Municipal Water District to connect with the distribution system described above with all pipe laid at such a depth as to provide a full forty-eight inch (48") minimum cover from the top of the pipe to street grade, unless otherwise specified by the City Engineer, all in accordance with those plans and specifications which have been approved by the City Engineer, and are on file in the office of the Menifee Engineering Department. Said approved plans and specifications are hereby made a part of this agreement as fully as though set forth herein. All of the above required work shall be done under the inspection of, and to the satisfaction of the City Engineer and the City Health Officer, and shall not be deemed complete until approved and accepted as complete by the City. Developer further agrees to maintain the above required improvements for a period of one year following acceptance by the City, and during this one year period to repair or replace, to the satisfaction of the City Engineer, any defective work or labor done or defective materials furnished. Developer further agrees that all underground improvements shall be completed prior to the paving of any roadway. The estimated cost of said work and improvements is the sum of **Seven hundred nineteen thousand five hundred and no/100 Dollars (\$ 719,500.00)**.

SECOND: Developer agrees to pay to City the actual cost of such inspections of the work and improvements as may be required by the City Engineer. . Developer further agrees that, if suit is brought upon this agreement or any bond guaranteeing the completion of the water system improvements, all costs and reasonable expenses and fees incurred by City in successfully enforcing such obligations shall be paid by Developer, including reasonable attorney's fees, and that, upon entry of judgment, all such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

THIRD: City shall not, nor shall any officer or employee of City, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this agreement prior to the completion and acceptance thereof, nor shall City or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Developer, its agents or employees, in the performance of the work, and all or said liabilities are assumed by Developer. Developer agrees to protect, defend, and hold harmless City and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Developer, its agents and employees, in the performance of this agreement or arising out of the use of any patent or patented article in the performance of this agreement.

FOURTH: The Developer hereby grants to City, or any agent or employee of City, the irrevocable permission to enter upon the lands of the subject land division for the purpose of

completing the improvements. This permission shall terminate in the event that Developer has completed work within the time specified or any extension thereof granted by the City.

FIFTH: The Developer shall provide adequate notice and warning to the traveling public of each and every hazardous or dangerous condition caused or created by the construction of the works of improvement at all times up to the completion and formal acceptance of the works of improvement. The Developer shall protect all persons from such hazardous or dangerous conditions by use of traffic regulatory control methods, including, but not limited to, stop signs, regulatory signs or signals, barriers, or detours.

SIXTH: Developer, its agents and employees, shall give notice to the City Engineer at least 48 hours before beginning any work and shall furnish said City Engineer all reasonable facilities for obtaining full information with respect to the progress and manner of work.

SEVENTH: If Developer, its agents or employees, neglects, refuses, or fails to prosecute the work with such diligence as to insure its completion within the specified time, or within such extensions of time which have been granted by City, or if Developer violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, Developer shall be in default of this agreement and notice of such default shall be served upon Developer. City shall have the power, on recommendation of the City of Menifee Engineering, to terminate all rights of Developer because of such default. The determination by the City Engineer of the question as to whether any of the terms of the agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon the Developer, and any and all parties who may have any interest in the agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to City under law. The failure of the Developer to commence construction shall not relieve the Developer or surety from completion of the improvements required by this agreement.

EIGHTH: Developer agrees to file with City, prior to the date this agreement is executed, a good and sufficient improvement security in an amount not less than the estimated cost of the work and improvements for the faithful performance of the terms and conditions of this agreement, and good and sufficient security for payment of labor and materials in the amount prescribed by Article XVII of Riverside County Ordinance 460 or any successor thereto to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California. Developer agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amount of said bonds, or both, within ten (10) days after being notified by the City Engineer that the sureties or amounts are insufficient. Notwithstanding any other provisions herein, if Developer fails to take such action as is necessary to comply with said notice, Developer shall be in default of this agreement unless all required improvements are completed within ninety (90) days of the date on which the City Engineer notified Developer of the insufficiency of the security or the amount of the bonds or both.

NINTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this agreement, that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this agreement, extensions of time may be granted, from time to time, by City, either at its own option, or upon request of Developer, and such extensions shall in no way affect the validity of this agreement or release the surety or sureties on such bonds. Developer further agrees to maintain the aforesaid bond or bonds in full force and effect during the terms of this agreement, including any extensions of time as may be granted therein.

TENTH: It is understood and agreed by the parties hereto that if any part, term or provision of this agreement is by the courts held to be unlawful and void, the validity of the remaining portions

shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain that particular part, term or provision held to be invalid.

ELEVENTH: Any notice or notices required or permitted to be given pursuant to this agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

City

Developer

City Engineer  
City of Menifee  
29714 Haun Road  
Menifee, CA 92586

KB HOME Coastal Inc.  
36310 Inland Valley Drive  
Wildomar, CA 92595

IN WITNESS WHEREOF, Developer has affixed his name, address and seal.

KB HOME Coastal Inc., a California corporation

By:



Michael H. Freeman, Jr.  
Vice President, Land and Forward Planning

By:

a  
its

By:

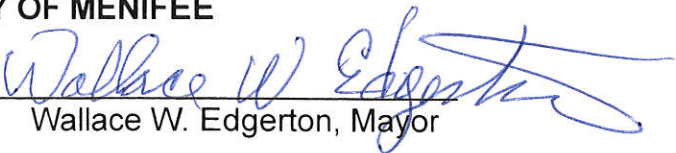
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By:

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

**CITY OF MENIFEE**

By

  
Wallace W. Edgerton, Mayor

ATTEST:

APPROVED AS TO FORM:

By



Kathy Bennett, City Clerk

By:



Karen Feld, City Attorney

**SIGNATURES OF DEVELOPER MUST BE ACKNOWLEDGED BY NOTARY  
AND EXECUTED IN TRIPLICATE**

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }

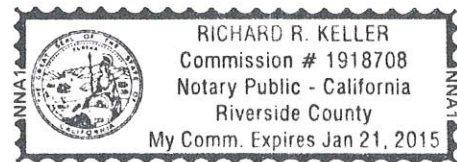
County of Riverside }

On August 11, 2011 before me, Richard R. Keller, Notary Public, personally appeared Michael H. Freeman, Jr., 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.

  
\_\_\_\_\_  
Richard R. Keller



(SEAL)