

**WATER MAIN INTERCONNECT AGREEMENT (MAGNOLIA AVENUE)
BETWEEN THE CITY OF BUENA PARK AND THE CITY OF FULLERTON
BUENA PARK CAPITAL IMPROVEMENT PROJECT NO. 372**

This Water Main Interconnect Agreement ("Agreement") is made and entered into this ___ day of _____, 2024 ("Effective Date") by and between the City of Buena Park, a municipal corporation ("BUENA PARK") and the City of Fullerton, a municipal corporation ("FULLERTON"). BUENA PARK and FULLERTON are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

A. RECITALS.

WHEREAS, BUENA PARK and FULLERTON each own and operate a municipal water system that serves residents and businesses within their respective jurisdictional boundaries.

WHEREAS, Magnolia Avenue runs in a "south-north" direction and serves as a jurisdictional boundary between BUENA PARK to the "west" and FULLERTON to the "east," and Orangethorpe Avenue runs in a "east-west" direction and serves as a jurisdictional boundary between BUENA PARK to the "north" and FULLERTON to the "south." Magnolia Avenue and Orangethorpe Avenue intersect at a point one block north of the Interstate-91 Freeway (the "Site").

WHEREAS, BUENA PARK desires to construct a water main interconnect between its water system and FULLERTON's water system near the Site, as the interconnect is more specifically detailed in Exhibit A (the "Interconnection"), for the purpose of providing an additional source of water in the event of an extraordinary or emergency disruption of water service to customers of the BUENA PARK water system.

WHEREAS, FULLERTON recognizes the mutual benefits of water exchanges between jurisdictions and the Parties desire to enter into this Agreement to govern the installation, operations and maintenance activities of the Interconnection and any water utilized by BUENA PARK by virtue thereof.

WHEREAS, the Interconnection will avoid duplication of facilities and provide water service in a cost effective manner to the customers of BUENA PARK and, when necessary, further protect and restore service to BUENA PARK'S customers during extraordinary and emergency conditions.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS, AND CONDITIONS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

B. AGREEMENT.

1. LICENSE FOR INTERCONNECTION.

FULLERTON hereby grants a license to BUENA PARK to construct the Interconnection at the Site and thereafter own, use, and operate the Interconnection

pursuant to the terms and conditions set forth herein. Except as expressly specified FULLERTON shall not require the payment of any rents, license fees, or monetary consideration of any kind in exchange for this Agreement, with the Parties recognizing and agreeing that the mutual promises and obligations of this Agreement, together with the public purposes furthered hereby, serve as good, valuable, and adequate consideration.

2. TERM

The term of this Agreement shall commence on the Effective Date and continue in full force and effect until terminated pursuant to Section 8 of this Agreement.

3. DESIGN AND CONSTRUCTION OF INTERCONNECTION.

The Interconnection shall be designed and constructed in accordance with the terms and conditions in this section.

A. Lead Agency. BUENA PARK shall serve as the “lead agency” for all purposes related to the Interconnection, including but not limited to the California Environmental Quality Act (CEQA) and labor code compliance, and shall be responsible and exclusively liable for procuring, contracting, managing, and overseeing any and all planning, design, and construction work necessary to complete the Interconnection. BUENA PARK shall solicit and procure all work necessary for the Interconnection in accordance with the requirements of applicable federal and state law and the Buena Park Municipal Code, and shall oversee and manage such work until the Interconnection is accepted as complete by BUENA PARK and FULLERTON.

B. Plans and Specifications. Plans and specifications for the Interconnection are set forth in Exhibit A to this Agreement. Before awarding a contract to construct the Interconnection, BUENA PARK shall provide the final plans and specifications to FULLERTON’s Director of Public Works for approval. Once approved by Fullerton’s Director of Public Works, the Director shall issue a written notice to proceed. Upon completion of construction, As-Built plans and specifications shall replace and supersede Exhibit A to this Agreement.

C. Costs. BUENA PARK shall bear all costs and expenses associated with the design, planning, and construction of the Interconnection. FULLERTON agrees to waive fees associated with any permits needed from FULLERTON to construct the Interconnection.

D. Permits; Compliance with Applicable Laws. At all times during the term of this Agreement, BUENA PARK shall ensure its contractor: (1) has in full force and effect all licenses and permits required of it by law for performance of the Interconnection construction and; (2) complies with all applicable federal, state, and local laws, rules, regulations, and ordinances, including workers’ compensation, applicable to constructing the Interconnection.

E. Coordination and Cooperation. To the fullest extent possible FULLERTON and BUENA PARK shall cooperate in performance of this Agreement. The Parties agree to first resolve any conflicts through informal resolution by a meeting of each Party’s Director

of Public Works or his or her designee. BUENA PARK and FULLERTON shall cooperate in good faith in the processing or issuance of any permits needed to construct the Interconnection and shall coordinate in the scheduling of all activities needed to construct the Interconnection. Construction shall only occur during such dates and times as approved in advance by FULLERTON. The Parties may enter into such additional access agreements, encroachment permits, implementation agreements, or memorandums of understanding as deemed necessary to memorialize and document the Parties' respective rights and obligations during the construction of the Interconnection.

F. Prevailing Wage. In accordance with Labor Code Section 1770 *et seq.* and the Charter for the City of Buena Park, the Interconnection is a "public work" to which the requirements of prevailing wage apply. Pursuant to the provisions of Section 1773.2 of the Labor Code, the selected contractor and its subcontractors, if any, shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations regarding the prevailing rate of per diem wages.

G. Engineering. During construction, BUENA PARK shall furnish a resident engineer during design and construction of the Interconnection. FULLERTON may, at its expense but without obligation, furnish its own respective engineer for purposes of cooperating and consulting with BUENA PARK's engineer.

H. Construction Contract; Changes. A copy of the executed contract between BUENA PARK and contractor selected to construct the Interconnection shall be provided to FULLERTON before commencement of work. BUENA PARK may approve contract changes deemed necessary or advisable provided that any change which deviates from the plans and specifications approved by FULLERTON must first be approved in writing by FULLERTON's City Engineer.

I. Project Completion. Once construction is commenced, BUENA PARK shall use best efforts to complete the construction in a commercially reasonable time. BUENA PARK shall allow FULLERTON to inspect the Interconnection before accepting the work as complete, and within 45 days after completion and acceptance of the Interconnection by BUENA PARK, its Public Works Director/City Engineer shall notify FULLERTON, in writing, of the date of final completion of the Interconnection.

4. OWNERSHIP, OPERATION AND MAINTENANCE OF INTERCONNECTION

A. Ownership. BUENA PARK shall own the Interconnection up to the FULLERTON controlled gate valve specifically identified as Part 10 on the plans and specifications set forth in Exhibit A, and FULLERTON shall own all other structures or improvements constructed or placed under or adjacent to the Site (i.e. such as backfill and roadwork) as part of the Interconnection work. Upon termination of this Agreement, BUENA PARK shall at its cost and expense cap, abandon in place, remove, or otherwise retire the Interconnection as directed by FULLERTON. Failure to do so within 90 days of the expiration of termination of this Agreement by BUENA PARK shall be reason for FULLERTON to mobilize their own contractor to cause such work to be performed and BUENA PARK shall reimburse the reasonable documented costs of such work within 60 days.

B. Meter. BUENA PARK shall install one uni-directional meter at the Interconnection that is capable of measuring water from FULLERTON's system through the Interconnection to BUENA PARK's system. Installation and maintenance of the meter shall be performed in accordance with manufacturer recommendations and at the sole and exclusive cost of BUENA PARK. The meter shall be replaced at the frequency required by the manufacturer, or applicable industry standards at the sole and exclusive cost of BUENA PARK.

C. Interconnection Operation and Maintenance. BUENA PARK shall be fully responsible for the inspection, operation, maintenance, and all associated costs and expenses of the Interconnection, including performing both ordinary and extraordinary, foreseen and unforeseen repairs and maintenance including any SCADA (supervisory control and data acquisition) failures and associated costs incurred by FULLERTON; except to the extent the need for repairs, maintenance, or the damage caused by the intentional misconduct or gross negligence of FULLERTON. The FULLERTON gate valve shall be operated by FULLERTON staff only and FULLERTON shall be notified ahead of any maintenance activities with a minimum 24-hour notice. The Operating Representatives (defined below) shall jointly prepare, adopt and regularly update scheduled procedures for the operation and maintenance of the Interconnection. These scheduling procedures shall contain (i) contact information; and (ii) scheduling and communication protocols. FULLERTON shall bear the obligation to repair any damage caused to the Interconnection by the intentional or reckless acts of its employees, contractors, or other agents acting by or at the direction of FULLERTON. In the event of an emergency BUENA PARK shall within 24 hours of receiving notification thereof correct, repair, and make safe the Interconnection, the Site, or any portion thereof that is determined by FULLERTON, in its sole and absolute discretion, to pose an immediate threat to public health and/or safety. Failure to comply may result in FULLERTON ordering or making corrections and/or repairs and BUENA PARK shall reimburse the reasonable costs of such correction and/or repairs within 60 days.

D. Water Supply. FULLERTON will provide water delivery service to BUENA PARK through the Interconnection and BUENA PARK will pay for such water delivery service in accordance with the provisions of this Agreement.

1) Water Supply Requests. If BUENA PARK requires water on a temporary basis in order to protect or restore water service to its customers, BUENA PARK may submit to FULLERTON a written or electronic mail request ("Water Supply Request") for water setting forth: (a) the reason for the request; (b) the estimated amount of water needed; and (c) the commencement date for water deliveries and projected end date. The commencement date, which is included in the Water Supply Request, may include periods prior to FULLERTON'S approval. FULLERTON shall review the request and respond to BUENA PARK within 30 calendar days of the Water Supply Request, except in the case of Emergency Situations. FULLERTON shall supply the requested water in accordance with the Water Supply Request, with any revisions acceptable to BUENA PARK in writing, if FULLERTON determines, in their sole discretion, (i) the water is available for the requested time period; (ii) compliance with the Water Supply Request will not have an adverse economic impact; and (iii) compliance with the Water Supply Request will not result in the impairment of or jeopardize FULLERTON'S system, its customers, or its commitment to third parties.

2) Emergency Supply Request. In the event BUENA PARK requires water in order to protect or restore water service to its customers in an Emergency Situation, BUENA PARK may submit to FULLERTON by electronic mail or in mail to the email addresses or numbers in Section 12 herein a request for water (an "Emergency Supply Request") setting forth: (a) the reason for the request; (b) the estimated amount of water needed; and (c) the commencement date for water deliveries and projected end date, if known. FULLERTON shall immediately review the request and respond to BUENA PARK in a commercially reasonable time unless FULLERTON is unable to respond. FULLERTON shall supply the requested water in accordance with the Emergency Supply Request, with any revisions acceptable to BUENA PARK in writing, if FULLERTON is not prevented from doing so by the Emergency Request and determines, in their sole discretion, (i) the water is available for the requested time period; (ii) compliance with the Emergency Supply Request will not have an adverse economic impact; and (iii) compliance with the Emergency Supply Request will not result in the impairment of or jeopardize FULLERTON'S system, its customers, or its commitment to third parties. Any water deliveries which occur on account of an Emergency Supply Request shall not extend beyond 30 calendar days unless FULLERTON mutually agree in writing to extend the deliveries.

3) Use to meet Fire Flow in Buena Park Service Area. In the event BUENA PARK experiences a pressure drop in the area of its system served by the Interconnection, as determined by Cla-Val pressure control settings, the water provided through the Interconnection is necessary to balance and maintain service to meet fire demands. BUENA PARK may automatically draw water through the Interconnection without advance notice to FULLERTON; provided that within 24 hours of such use, BUENA PARK shall provide notice of such usage by electronic mail or in mail to the email addresses or numbers in Section 12 (a "Pressure Draw Notice") setting forth: (a) the reason for the water draw; (b) the amount of water used; and (c) the commencement and end date, if known. FULLERTON shall immediately review the request and respond to BUENA PARK in a commercially reasonable time unless FULLERTON is unable to respond. FULLERTON shall supply the requested water with any revisions acceptable to BUENA PARK in writing, if FULLERTON determines, in their sole discretion, (i) the water is available for the requested time period; (ii) satisfying the Pressure Draw Notice will not have an adverse economic impact; and (iii) satisfying with the Pressure Draw Notice will not result in the impairment of or jeopardize FULLERTON'S system, its customers, or its commitment to third parties. Any water deliveries which occur on account of a Pressure Draw Notice shall not extend beyond 30 calendar days unless FULLERTON mutually agree in writing to extend the deliveries. The Interconnection shall be designed to operate in the manner described in this subsection. The pressure control settings for opening on the Cla-Val shall be agreed upon by both Parties but shall accommodate the common pressure in the Buena Park service area, plus minimum standby pressure needed for fire safety, and a higher pressure setting for emergency water supply due to loss of primary feed to the area. Both Parties shall be physically present and document when changes to the pressure control valve settings are made. If an agreed upon setting cannot be reached, the interconnect shall be closed until one can be agreed upon. Both Parties shall act in good faith in reaching an agreeable setting.

4) Meter Reading. During all applicable months wherein FULLERTON is supplying water, BUENA PARK shall take and record readings of the meters on the

Interconnection ("Monthly Meter Reading") to determine the volume of water deliveries and report the readings to FULLERTON for review and approval by FULLERTON's Operating Representatives.

5) Water Quality. For any water deliveries covered by this Agreement, FULLERTON shall only supply potable water which meets or exceeds the water quality standards of Applicable Law.

6) Billing and Payment. At the end of each calendar month during the Term FULLERTON will review the Monthly Meter Reading. If water was transferred to BUENA PARK during this period, FULLERTON will invoice BUENA PARK for such water delivery at the then-current Metropolitan Water District rate for Full Service Treated non-interruptible water plus 10% ("Service Invoice"). The Service Invoice shall be paid by BUENA PARK within 60 calendar days receipt of the invoice, with penalties and interest due for late payments at the same rate FULLERTON charges other customers.

7) Dispute. In the event a portion of any invoice is disputed due to incorrect delivery volume, the Parties agree that the entire invoice, including the disputed amount shall be paid when due. Within 30 calendar days of the payment of the invoice, the Parties shall informally meet and confer to resolve the payment dispute prior to invoking Section 6. If the Parties resolve the payment dispute and determine that BUENA PARK was overcharged, the amount of overpayment shall be refunded within 30 calendar days of the determination with interest accrued at the rate of one percent (1%) per month, computed after 30 calendar days of determination.

E. Non-Interference. BUENA PARK understands and agrees that the Site and Interconnection are being sited under, upon, or adjacent to the public right-of-way and will utilize best efforts to minimize negative impacts on pedestrian and vehicular traffic during construction, repairs, and operations of the Interconnect and on the Site.

F. Damage to Site or Right-of-Way. BUENA PARK shall, at its sole expense, repair any damage to the Site or public right-of-way arising or resulting from BUENA PARK's construction of the Interconnection or activities or operations on the Site.

5. AUDIT.

Either Party may request an audit of the other Party's records related to invoices prepared pursuant to this Agreement and to designate a representative(s) to examine any cost, payment, claim or any other records or procedures related to this Agreement. Any such audit(s) would be done at reasonable times with the full cooperation of the other Party. The Party, who requests the audit, shall be solely responsible for the costs of the audit. The right to audit shall be extended to three years beyond the Term, or longer if required by law. The Parties agree to retain all necessary records/documentation for the entire length of this audit period. Any required adjustments and/or payments resulting from the audit will be made within 30 days of written notification to the responsible Party. This section shall survive the termination or expiration of this Agreement.

6. DISPUTE RESOLUTION.

The Parties agree to make a diligent good-faith attempt to resolve any claim, controversy or dispute arising out of this Agreement ("Disputes"). Authorized representative shall be selected by each party to resolve Disputes. If the authorized representatives of the Parties are unable to resolve a Dispute arising within 30 calendar days after notice from one Party to the other, such Dispute will be submitted promptly to the senior executive officers of the Parties, who will meet, in person or by telephone, not later than 10 calendar days after the date such Dispute was submitted to them. In the event the Parties' officers cannot resolve the Dispute within 10 calendar days after the matter is submitted to them, the Parties shall promptly submit the Dispute to mediation. Each Party shall bear its own costs of mediation. If mediation does not result in settlement within 45 calendar days after the matter is submitted to mediation, either Party may file legal action for a court determination of the Dispute.

7. ADMINISTRATION.

A. Authority. The Director of Public Works for each Party, or his/her designee, shall be the "Operating Representative" of each Party and is authorized, to, as applicable: (a) issue written notices, invoices, and other documents; (b) request, approve, reject, consent, deny, elect or other make determinations when that Party is authorized to take such actions under this Agreement including requesting, issuing, approving, or denying Water Supply Requests or Emergency Supply Requests. The Operating Representative of each Party may designate any staff member or members to perform any of the foregoing, except for termination of this Agreement. The Operating Representative is not authorized to amend the terms of this Agreement or terminate this Agreement.

B. Cooperation. The Operating Representatives, or their designee(s), shall jointly and in cooperation with the other Operating Representative: (i) establish operating procedures for the Interconnection; (ii) coordinate the inspection, operation, and maintenance of the Interconnection; and (iii) perform such other actions expressly set forth in this Agreement.

8. TERMINATION.

Following completed construction of the Interconnect, BUENA PARK may terminate this Agreement with or without cause at any time upon one year's days written notice to FULLERTON, provided BUENA PARK satisfies its obligations under Section 4.A to cap, abandon in place, remove, or otherwise retire the Interconnection as directed by FULLERTON. FULLERTON may only terminate this Agreement upon a material breach by BUENA PARK and after complying with Section 6, or upon a showing of good cause that: (a) termination of this Agreement is reasonably necessary to protect the best interests of FULLERTON and; (b) relocation of the Interconnection as contemplated in Section 24 is not reasonably feasible.

9. SUCCESSORS AND ASSIGNS.

This Agreement is binding on and shall inure to the benefit of the Parties and their respective heirs, successors (including, successor owners), permitted assigns and representatives.

10. FORCE MAJEURE

If a Party, because of "Force Majeure," is rendered wholly or partly unable to perform its obligations when due under this Agreement, that Party (the "Claiming Party"), will be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided, the Claiming Party must, within 14 calendar days after the initial occurrence of the claimed Force Majeure, give the other Party written notice describing the particulars of the occurrence. The suspension of the Claiming Party's performance due to Force Majeure will be of no greater scope and of no longer duration than is required by the Force Majeure. When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt written notice to that effect. Either Party may terminate this Agreement on written notice, which will be effective five business days after such Notice is provided, if an event of Force Majeure extends for more than 365 calendar days. For purposes of this section "Force Majeure" means any occurrence that, in whole or in part, delays a Party's performance under this Agreement or causes a Party to be unable to perform its obligations, and is not within the control of that Party, including an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute.

11. INDEMNIFICATION AND INSURANCE

A. To the fullest extent permitted by law, BUENA PARK shall defend, indemnify and hold harmless FULLERTON, its elected officials, officers, agents, employees, and designated volunteers from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged, or threatened, actual attorneys fees incurred by FULLERTON, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation (collectively "Claims"), and to the extent incurred in relation to, as a consequence of, arising out of or in any way attributable, actually, allegedly or impliedly, to the action or inaction, negligence, or willful misconduct of BUENA PARK arising from its use, occupancy, operations, or activities on the Site or related to its performance of this Agreement, except to the extent such Claims arise from the sole negligence or willful misconduct of FULLERTON, its officers, employees, and agents. All obligations under this provision are to be paid by BUENA PARK as they are incurred by FULLERTON.

B. As of the Effective Date, BUENA PARK has provided evidence to FULLERTON of insurance coverage in the amounts and of types that are acceptable to FULLERTON. BUENA PARK shall maintain such insurance coverage throughout the term of this Agreement and FULLERTON shall be added as an additional insured. During the term of this Agreement BUENA PARK shall provide FULLERTON with evidence of such coverage upon request, which may include visual inspection of all policies, copies of declarations page, endorsements signed by an authorized representative of the underwriting company, or certificates of insurance.

C. BUENA PARK's indemnification obligations hereunder should be separate from the insurance requirements. BUENA PARK's obligation to indemnify FULLERTON

shall not in any way be reduced or limited by the limits of any policies of insurance required by this Agreement.

D. Before commencement of any work, and until the Interconnection is accepted as complete by both BUENA PARK and FULLERTON, BUENA PARK shall require all contractors performing work on the Interconnection to obtain and maintain the following insurance:

1. Commercial General Liability with minimum limits of Five Million Dollars (\$5,000,000.00) combined single limit coverage per occurrence against bodily injury, personal injury, or property damage which may occur as a result of wrongful or negligent acts by BUENA PARK, its officers, employees, agents, and independent contractors or BUENA PARK's use, occupancy and operations on the Site, such limit may be satisfied by a combination of primary and umbrella policies. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit; and

2. Automobile Liability with a minimum combined single limit of \$1,000,000.00 per accident for bodily injury and property damage. Such insurance shall include coverage for owned, hired and non-owned automobiles; and

3. Workers' Compensation as required by law.

E. All policies of insurance described in this Section 11 shall name FULLERTON as an additional insured and completed policy endorsements and certificates shall be filed with FULLERTON on or before the commencement of work on the Interconnection, which shall be subject to the approval of FULLERTON. Thereafter current endorsements shall be maintained on file with FULLERTON as follows:

1. Commercial General Liability, Business Automobile Liability Policies.

a. FULLERTON, its officers, officials, employees, and volunteers are to be covered as an additional named insured as respects: liability arising out of activities performed by or on behalf of the contractor; products and completed operations of contractor; premises owned, occupied or used by contractor; or automobiles owned, leased, hired, or borrowed by contractor.

b. The insurance coverage shall be primary insurance as respects FULLERTON, its elected and appointed officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by FULLERTON, its officers, elected and appointed officials, agents, employees, or volunteers shall be excess of the policy holder's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to FULLERTON, its officers, officials, agents, employees, or volunteers.

d. The policy holder's insurance shall apply separately to each

insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation. The insurer shall agree to waive all rights of subrogation against FULLERTON, its officers, elected and appointed officials, agents, employees, and volunteers for losses arising from work performed by FULLERTON, its officers, agents, employees, and independent contractors.

3. All Coverages. Each of the insurance policies required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after 30 days' prior written notice by certified mail, return receipt requested, has been given to FULLERTON.

4. Deductibles. Any deductible or self-insured retention must be declared to and approved by FULLERTON.

12. NOTICES.

Notices permitted or required to be provided pursuant to this Agreement shall be sent to the addresses below. By notice to the other Party, either Party may change the address specified above. Service of notice or communication shall be complete, if personally served, when received at the designated address, or five calendar days after deposit of said notice or communication in the United States mail, postage prepaid, whichever occurs first.

BUENA PARK

City of Buena Park
Director of Public Works/ City Engineer
6650 Beach Boulevard
Buena Park, California 90621-5009
Email: _____

FULLERTON

City of Fullerton
Public Works Director
303 West Commonwealth Avenue
Fullerton, California 92832
Email: maintenance@cityoffullerton.com
Phone: 714-738-6897

13. WAIVER

A waiver by either Party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

14. INTEGRATED CONTRACT

This Agreement and the Exhibits hereto contain the entire agreement of the Parties with respect to the matters covered hereby, and no agreement, statement or promise made by either Party which is not contained herein, shall be valid or binding. No prior agreement, understanding or representation pertaining to any such matter shall be effective for any purpose.

15. CONFLICTS OR INCONSISTENCIES

In the event there are any conflicts or inconsistencies between this Agreement and the Exhibits, or any other attachments attached hereto, the terms of this Agreement shall govern.

16. INTERPRETATION

Each Party acknowledges that it has had the benefit of advice of competent legal counsel with respect to its decision to enter this Agreement. The provisions of this Agreement shall be interpreted to give effect to their fair meaning and shall be construed as prepared by both Parties.

17. REPRESENTATION

Each of the Parties expressly acknowledges and represents that it has been represented by counsel in the negotiations culminating in this Agreement, and that it has read this Agreement, reviewed the same with counsel, and fully understands the meaning and effect of each and every provision of this Agreement.

18. AMENDMENTS

This Agreement may be modified or amended only by a written document executed by all of the Parties.

19. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of its terms and provisions to persons and circumstances other than those to which it has been held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. REMEDIES CUMULATIVE

The remedies given to the Parties herein shall be cumulative and are given without impairing any other rights given the Parties by statute or law now existing or hereafter enacted and the exercise on any one remedy by any Party shall not exclude the exercise of any other remedy.

21. NO THIRD PARTY BENEFICIARIES

The Parties intend that neither rights nor remedies be granted to any third party as a beneficiary of this Agreement or of any covenant, duty, obligation or undertaking established herein.

22. CONTROLLING LAW AND VENUE

The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange.

23. AUTHORITY

Each individual executing this Agreement, on behalf of a corporation, nonprofit corporation, partnership or other entity or organization, represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity or organization and that this Agreement is binding upon the same in accordance with its terms.

24. RELOCATION

A. If FULLERTON determines it necessary to relocate the Interconnection, Fullerton will have the right, subject to the following provisions, and exercisable at any time after the first five (5) years of the Term, to relocate the Interconnection, or any part thereof, to an alternate location (the "Relocation Site"); provided, however, that: (a) all costs and expenses associated with or arising out of such relocation (including, without limitation, costs associated with any required zoning approvals and other governmental approvals, costs for tests of the Relocation Site, etc.) shall be paid by FULLERTON; (b) such relocation will be performed exclusively by BUENA PARK or its agents; (c) such relocation will not unreasonably result in any interruption of the service to BUENA PARK; and (d) such relocation will not impair, or in any manner alter, the ability of BUENA PARK to construct and operate the Interconnection on and from FULLERTON's water system. FULLERTON will exercise its relocation right by delivering written notice pursuant to the terms of this Agreement to BUENA PARK. FULLERTON and BUENA PARK hereby agree that the parties will enter into an amendment to this Agreement to memorialize the Relocation Site and that the Relocation Site shall be considered the Site for all purposes hereunder.

(a) If in BUENA PARK's reasonable judgement no suitable Relocation Site can be found, BUENA PARK shall have the right to terminate this Agreement pursuant to Section 8 of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their authorized officers.

CITY OF BUENA PARK

CITY OF FULLERTON

Aaron France, City Manager

Eric Levitt, City Manager

Exhibit "A"

Depiction of Site and Interconnect

REFERENCE BUENA PARK ENGINEERING PLANS FOR WATER MAIN INTERCONNECT PROJECT, MAGNOLIA AVENUE, PROJECT NO. 372, BID NO. 2024-02, DATED APRIL 2024. A true and correct copy of said plans are on file in the City of Buena Park Department of Public Works located at Engineering.