

Heber Public Utility District

REPORT TO BOARD OF DIRECTORS

MEETING DATE: May 15, 2014

FROM: Laura Fischer, General Manager

SUBJECT: Information Only Regarding Request for Additional Service Connections at Magnolia Gate

INFORMATION ONLY: Regarding Request for Additional Service Connections at Magnolia Gate Subdivision.

BACKGROUND:

In September 1996, HPUD entered into an agreement with Desco Development Company. The "Desco" Agreement provided that the developer would construct at its sole expense a water line to connect to existing HPUD lines on McCabe Road and that we would provide both Magnolia Gate and McCabe Cove developments with water services. This was approved by LAFCo under Resolution HB1-96. A copy of the Agreement is attached for your review.

The Desco Agreement says that there will be 37 connections, however the Magnolia Gate has 25 and McCabe Cove has 19 for a total of 44 possible connections. According to the Agreement the developer was to pay \$44,000 within 15 days after permits are issued or construction of the water line. This amount represents one-half of the total cost for 37 connections at \$2,400, which totals \$88,000. We received the \$44,000 according to the agreement.

The Agreement also states: 8. "Desco understands that if the developments and property to be serviced by the water line are annexed, in the future, by the City of El Centro, or water service is otherwise made available by the City of El Centro, Desco, homeowners and the homeowners association to be formed agree to pay or reimburse HPUD for all costs and expenses incurred or associated with the disconnection of HPUD service to the developments."

The Agreement also states that these customers outside of our Service Area were to be charged a double water rate. However, in 2010 the HPUD Board agreed to change this rate to a lower 1.25% of the residential rate for customers within the Service Area.

In 2004, HPUD received a request to connect three additional services in the McCabe Cove subdivision. HPUD agreed to connect, but the property owner has not followed up and those connections were not made. Please see the letter dated August 26, 2004 to Ed Menvielle.

Currently, there are only 17 homes built in the two subdivisions. Magnolia Gate has 25 lots with only 5 built. McCabe Cove has 19 lots with 12 built. HPUD is providing water

services to 17 homes in this area. Our current annual water revenue from these 17 homes is estimated at \$27,000.

DISCUSSION:

Last week, Mr. Menvielle can to our offices and requested that we honor the conditions and terms of the 2004 letter and allow the connection of one water service. Also, two weeks ago Mr. Charles Dessert called to request water services be authorized to four parcels that he is selling in Magnolia Gate. In addition, we have received inquiries about water availability and capacity for Magnolia Gate from a couple of real estate brokers.

Since the Desco Agreement was approved, the City of El Centro has expanded and has a water line on Farnsworth Road within 300 feet of HPUD's water main. It is clear that the City of El Centro can provide these subdivisions with water.

I have discussed this issue and the Agreement with our attorney and we feel that HPUD should not provide water services to these developments since the City of El Centro has water lines in close proximity. I have contact the City Manager and City Engineer for the City of El Centro. They have stated that if the developer wants water services they must annex into the City.

As you know, LAFCo must make a determination if HPUD is to provide services outside of our approved Service Area. To gain some information and clarification on this issue, I have scheduled a meeting with Jurg Heuberger with LAFCo to discuss. I will keep you posted on the details from our meeting.

Respectfully Submitted,

Laura Fischer,
General Manager

RECEIVED
SEP - 6 1996

DESCO WATER LINE AGREEMENT

H.P.U.D.

This agreement is made on the date set forth below by and between the Heber Public Utility District, (hereinafter referred to as "HPUD") and Desco Development Company, a partnership (hereinafter referred to as "Desco"), collectively referred to herein as the parties.

WHEREAS, HPUD is a Public Utility District organized and existing under the laws of the State of California; and

WHEREAS, Desco desires to obtain potable water from HPUD for developments commonly known as McCabe Cove and Magnolia Gate,

NOW, therefore, HPUD and Desco agree as follows:

1. Desco will construct at its sole expense a water line to connect to existing HPUD facilities on McCabe Road for the purpose of providing water to developments commonly known as McCabe Cove and Magnolia Gate. Said construction will conform with all engineering and technical requirements of HPUD and local, state, and federal laws, rules and regulations.

2. Desco agrees to dedicate to HPUD all title in fee simple to the water line constructed pursuant to this agreement. Desco shall be responsible for procuring all permits, rights of way, or any other property interest necessary to effect the construction and installation of the water line.

3. Desco agrees to comply with all terms and conditions of the Local Agency Formation Commission, resolution HB1-96 (Desco Development), a copy of which is attached hereto as Exhibit "A", incorporated by reference and made a part hereof.

4. Desco agrees to install, at its sole expense, a detector check valve pursuant to plans and specifications approved by HPUD. The purpose of the detector check valve is to monitor water flow to the lots in each development. Desco agrees to insert language in any homeowners agreement to ensure that the homeowners association to be formed will pay the difference between the water delivered to the check valve and the total amount of water registered on the meters on individuals lots.

5. Desco understands that the connection fees for this project are the sum of \$2,400.00 per connection, and represents that the total number of homes to be constructed in McCabe Cove and Magnolia Gate is thirty-seven (37). Desco agrees to pay to HPUD connection fees of \$2,400.00 per connection. Said fees are payable as follows:

a. One half of said sum within fifteen (15) days after permits are issued for construction of the water line, in the amount of \$44,400.00.

b. The balance upon the issuance of the building permit for the twelfth unit to be constructed.

6. Desco further agrees to pay to HPUD a sum as and for reimbursement under the Trentham Water Line agreement. This sum is presently \$454.00 per connection. This sum will increase at the rate of \$25.00 per connection for each calendar year commencing on January 1, 1997, and annually on that date thereafter.

7. Desco understands that its developments are outside the HPUD service boundaries and that the water service to be provided will be charged at a rate that is twice the existing rate which is applicable to water users within District boundaries.

8. Desco understands that if the developments and property to be serviced by the water line are annexed, in the future, by the City of El Centro, or water service is otherwise made available by the City of El Centro, Desco, homeowners and the homeowners association to be formed agree to pay or reimburse HPUD for all costs and expenses incurred or associated with the disconnection of HPUD service to the developments.

9. Desco agrees to grant HPUD permission, and to execute any documents reasonably necessary, for HPUD to have access and egress to Magnolia Gate and McCabe Cove for reading, replacement, and repair of on site water meters. Future homeowners and/or the homeowners association to be formed will be responsible for maintenance and repair of all on site water pipe and appurtenances except as expressly set forth herein.

10. Once dedicated to and accepted by HPUD, HPUD agrees to maintain and repair the water line, up to and including the check valve and the water meters. HPUD will not be responsible for maintenance and/or repair of on site water pipe and appurtenances, (i.e., downstream of check valve) which responsibility shall remain with Desco, future property owners, and the homeowner's association to be formed.

11. Allowing this project to connect to HPUD facilities and the provision of water hereunder is expressly conditioned on the water being used only for domestic cooking and sanitary purposes within dwellings. No water supplied by HPUD may be used for any other purpose including, without limitation, irrigation, washing vehicles, watering animals or vegetation, or outside maintenance of the premises. This provision shall be a covenant running with the land.

12. Desco warrants the design, construction and installation of the water line and appurtenances to be free of material defects in workmanship for a period of one (1) year from the date of acceptance by HPUD.

13. Desco agrees to indemnify, hold harmless, and defend HPUD from and against all liabilities, lawsuits, expenses, claims, demands, judgments, suits, actions, of every kind or nature whatsoever that may arise by reason of any act or omission of Desco or its agents or employees, or any of Desco's contractors or sub-contractors arising out of or in manner connected with the construction, installation, repair, replacement and maintenance of the water line to the extent that such duty or responsibility rests with Desco.

14. In the event of any action or proceeding to interpret or enforce the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs of suit in addition to any other relief in law or equity.

15. Desco represents it is a partnership duly organized and validly existing in good standing under the laws of the State of California which has the power and authority to enter into this agreement and to consummate the transactions contemplated hereby. Desco, and its specific, individual parties signing this agreement on behalf of Desco represent and warrant that the parties signing this agreement on behalf of Desco have the full legal power, authority and right to execute and deliver this agreement.

16. This agreement shall be binding upon and inure to the benefit of the assigns, heirs, and successors in interest of each party. Except as expressly set forth herein, this agreement is a sole and only agreement between the parties, and may not be modified other than by a subsequent written agreement.

Heber Public Utility District

Dated: 10/4/96

By: *Rosemarie Silva Rubio*

Desco Development Company

Dated: 9/19/96

By: *[Signature]* *General Partner*



Commonwealth®
Land Title Company



Reliance
A Reliance Group Holdings Company

RECEIVED

SEP 26 1996

H.P.U.D.

STATE OF CALIFORNIA)
COUNTY OF Imperial) ss

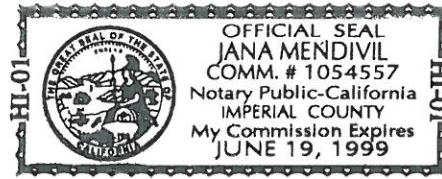
On September 19, 1996 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Charles C. Dessert

_____ personally known to me (or 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.

WITNESS my hand and official seal.



NOTARY PUBLIC



STATE OF CALIFORNIA)
COUNTY OF) ss

On _____ before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____

_____ personally known to me (or 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.

WITNESS my hand and official seal.

NOTARY PUBLIC

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Title or Type of Document: Water Line Agreement w/ #PUD

Date of Document: 9-6-96

Other Signer(s) than Named Above:



Heber Public Utility District

1078 Dogwood Rd., Suite 103 • P. O. Box H

Heber, CA 92249

TEL. (760) 482-2440 • FAX (760) 353-9951

August 26, 2004

Ed Menvielle
134 West McCabe Rd.
El Centro, CA 92243

RE: Additional Water Connections

Dear Mr. Menvielle,

On August 9, 2004 you had requested that Heber Public Utility District allow you to connect three additional homes to the water service.

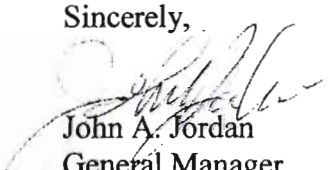
This request was forwarded to The Holt Group, and was also considered by the Board of Directors.

The Heber Public Utility District Board of Directors, at the regular meeting of August 19, 2004, approved the three additional connections with the following restrictions.

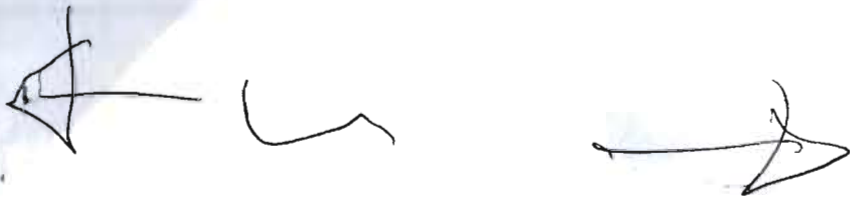
1. The same terms of the original agreement apply (when water is available from the El Centro Water Distribution system, you will be required to hook up to their system).
2. When the switch is made to El Centro from HPUD, there will be no cost for the connection/disconnection to HPUD.
3. When the connections are made, the contractor must work with HPUD personnel to make the connections.

This letter will serve as official notification that the connections have been approved by the HPUD Board of Directors.

Sincerely,


John A. Jordan
General Manager

CC: Steven Walker, HPUD Attorney
Jack Holt, HPUD Engineer
file



134 w McCabe

202
AC

.92
AC

.92
AC

.92
AC

1447

This is the
property asking
for services.

McCabe Cove Rd.

132

1412

1418

1422

1428

1432

1448

130

Magnolia Gate Circle

1450

1444

Magnolia Gate Circle

1440

1430

1428



Sanders	1412	McCabe Cr.	Dickerson	130	McCabe Rd.
Marin	1418	" "	Dickerson	132	McCabe Rd.
Seanez	1422	" "			
Romero	1427	" "			
Watte	1432	" "	Prince	1428	Magnolia Ct
Takata	1433	" "	Suliman	1436	" "
Lau	1437	" "	Villarreal	1440	" "
Beltran	1442	" "	Berenji	1444	" "
Hicks vacant lot	1448	" "	Fletes	1450	" "
Ellis	1452	" "			
Grizzle	1457	" "			