

## **WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY NOTICE OF MEETING**

**TO: THE BOARD OF DIRECTORS OF THE WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY AND TO ALL OTHER INTERESTED PERSONS:**

Notice is hereby given that the Board of Directors of the West Travis County Public Utility Agency (“WTCPUA”) will hold its regular meeting at 10:00 a.m. on Thursday, May 17, 2018 at City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas. The following matters will be considered and may be acted upon at the meeting.

The Consent Agenda allows the Board of Directors to approve all routine, non-controversial items with a single motion, without the need for discussion by the full Board. Any item may be removed from the Consent Agenda and considered individually upon request of a Board member.

*Public comments will be accepted only during designated portions of the Board meeting. Citizens wishing to address the Board should complete the citizens’ communication form provided at the entrance to the meeting room so they may be recognized to speak. Speakers will be limited to three minutes to facilitate the opportunity to comment by all those so interested and to support the orderly flow of the meeting.*

**I. CALL TO ORDER**

**II. ESTABLISH QUORUM**

**III. PUBLIC COMMENT**

**IV. CONSENT AGENDA (R. Pugh)**

- A. Approve minutes of April 19, 2018 regular Board Meeting.**
- B. Approve payment of outstanding invoices and other related bookkeeping matters.**
- C. Approve Service Extension Request (SER) including location map for Mantra Medical Offices, 11 water LUEs, 290 system.**
- D. Approve Second Amendment to Non-Standard Service Agreement (NSSA) for the 128 acre Grumbles Project to reduce water allocation from 81 LUEs to 76 LUEs.**
- E. Authorize General Manager to execute Consent to Assignment of 128 Acre Grumbles Project to new ownership:**

1. Assignment of 63 water LUEs to Saturn Five Signal Hills (95 acres).
2. Assignment of 13 water LUEs to San Camley, LLC (33 acres).

- F. Approve Murfee Engineering Co., Inc. Construction Inspection Services proposal in the amount of \$60,180 for Provence/MUD 22 Elevated Storage Tank Project.
- G. Authorize General Manager to execute a Sublease Listing Agreement with Peloton Commercial Real Estate, LP to market and obtain sublease for current administrative office space at Triton Center Suites 120 and 130.
- H. Approve Developer Reimbursement in the amount of \$108,734 to Taylor Morrison for Phase IV or Sawyer Ranch Road Pipeline.

**V. STAFF REPORTS**

- A. General Manager's Report (R. Pugh).
- B. Controller's Report (J. Smith):
- C. Engineer's Report (D. Lozano/J. Coker) including:
  1. Capital Improvements Plan Update.
  2. Impact Fee Study Update.
- D. Operations Report (T. Cantu):

**VI. OLD BUSINESS**

- A. Discuss, consider and take action regarding pending and/or anticipated litigation, including:
  1. *Travis County Municipal Utility District No. 12 v. West Travis County Public Utility Agency; in the 201st Judicial District Court, Travis County, Texas; Cause No. D-1-GN-16-002274 (D. Klein).*
  2. *William R. Holms v. West Travis County Public Utility Agency; in Travis County Court of Law #2; C-1-CV-17-003601 (S. Albright).*
  3. *John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency; in the 201st Judicial District Court, Travis County, Texas; Cause No. D-1-GN-18-001654 (S. Albright).*

*(These items under VI.A may be taken into Executive Session under the consultation with attorney exception).*

- B. Discuss, consider and take action on resignation of Michael Slack from Impact Fee Advisory Committee, and nominations for replacement (R. Pugh/D. Klein).**

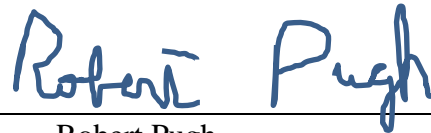
## **VII. NEW BUSINESS**

- A. Discuss, consider and take action regarding plat review and USFWS MOU requirements in plats by Hays County, City of Dripping Springs, Travis County, and City of Bee Cave including (S. Roberts):**
  - 1. Letters to Hays County, City of Dripping Springs, Travis County, and City of Bee Cave requesting addition of plat notes for future developments that state developments shall comply with provisions of the "Memorandum of Understanding" between the LCRA and the United States Fish and Wildlife Service (USFWS), dated May 24, 2000 (MOU).**
  - 2. Provide copy of City of Dripping Springs letter to Dripping Springs Water Supply Corporation.**  
*(This item may be taken into Executive Session under the consultation with attorney exception).*
- B. Discuss, consider and take action on Wholesale Agreement with Deer Creek Ranch Water Company, LLC including (B. Goodwin):**
  - 1. Letter to Travis County Commissioners Court requesting addition of plat notes for Longhorn Skyway Office Building Project that states the development shall comply with the water quality requirements outlined in the Wholesale Agreement.**  
*(This item may be taken into Executive Session under the consultation with attorney exception).*
- C. Discuss, consider and take action on Water Utility Facilities Acquisition Agreement Between Lower Colorado River Authority, 290 East Bush, Inc. and Hays County MUD 4, including (R. Pugh/S. Albright):**
  - 1. Service Extension Request (SER) for Anthem at Ledge Stone Apartment Homes, 67 water LUEs, 290 system.**
  - 2. Service Extension Request (SER) for Ledgestone Senior Living Phase Two, 28 water LUEs, 290 system.**  
*(This item may be taken into Executive Session under the consultation with attorney exception).*
- D. Discuss, consider and take action on CP and Y, Inc. Engineering Services Proposal for system wide effluent infrastructure modeling (R. Pugh).**
- E. Discuss, consider and take action on Billing Services Agreement with Springhollow Municipal Utility District for Parten Ranch Development (R. Pugh/S. Albright).**

- F. Discuss, consider and take action on Lease Agreement with Springhollow Municipal Utility District for Parten Ranch Development (Don Walden).**  
*(This item may be taken into Executive Session under the consultation with attorney exception).*
- G. Discuss, consider and take action on date for Special Board meeting for Impact Fee Study workshop, including (R. Pugh):**
  - 1. Land use assumptions.**
  - 2. CIP update.**
  - 3. Impact fee calculation methodology, and report completion.**
- H. Discuss, consider and take action regarding PUA operational matters, including (S. Roberts/E. Brzoska)**
  - 1. Reduction of electricity usage at PUA facilities.**
  - 2. Adjustment to distribution of PUA watering schedule.**
  - 3. Survey of maintenance and repairs of PUA lift station facilities.**
  - 4. References to PUA customers.**

#### **VIII. ADJOURNMENT**

Dated: May 10, 2018



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Robert Pugh  
WTCPUA General Manager

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The Board of Directors may go into Executive Session, if necessary, pursuant to the applicable section of Subchapter D, Chapter 551, Texas Government Code, of the Texas Open Meetings Act, on any of the above matters under the following sections: Texas Government Code Ann. 551.071 – Consultation with Attorney; Texas Government Code Ann. 551.072 – Real and Personal Property; Texas Government Code Ann. 551.074 – Personnel Matters. No final action, decision, or vote will be taken on any subject or matter in Executive Session.

The West Travis County Public Utility Agency is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call Robert Pugh, General Manager at (512) 263-0100 for information.

## **IV. CONSENT AGENDA**

## ITEM A

**MINUTES OF MEETING OF  
THE BOARD OF DIRECTORS OF THE  
WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

April 19, 2018

**Present:**

Scott Roberts, President  
Don Walden, Vice President  
Ray Whisenant, Secretary  
Bill Goodwin, Assistant Secretary  
Eileen Brzoska, Director

**Staff and Consultants:**

Robert Pugh, General Manager  
Jennifer Riechers, Program Manager  
Jennifer Smith, Agency Controller  
Stefanie Albright, (Lloyd Gosselink Rochelle & Townsend, P.C.), Agency General Counsel  
David Klein, (Lloyd Gosselink Rochelle & Townsend, P.C.), Agency General Counsel  
Judith Coker, Agency Engineer  
Trey Cantu, Agency Operations Manager  
Dennis Lozano, Engineering Consultant

**I. CALL TO ORDER**

Director Roberts called the meeting to order at 10:00 a.m.

**II. ESTABLISH QUORUM**

A quorum was established. Also present were the above-referenced staff and consultants.

**III. PUBLIC COMMENT**

Mr. Gene Lowenthal with the HPR Scenic Corridor Coalition and HPR Matters addressed the Board. He voiced his appreciation to the PUA for the implementation of policies with strong water quality measures and stated that these organizations are supportive of the PUA on these issues. He first addressed the Deer Creek item, stating that initially it was believed that there was a “loophole” where wholesale customers were not required to follow U.S. Fish and Wildlife Service’s (USFWS) Memorandum of Understanding (MOU) measures or a more stringent regional water plan. He stated that Mr. Pugh confirmed however that the original contract with the LCRA that conveyed to the PUA required water quality measures for this wholesale customer. The Hilltop Tract developer has claimed that there is a commitment to water from Deer Creek Water Company that doesn’t require USFWS MOU compliance and that this will be detrimental to neighboring communities. He asked that Hilltop Manor be required to conform to the PUA’s wholesale contract with Deer Creek Water Company.

Mr. Jim Koerner next addressed the Board as a member of HPR Matters. He stated that HPR Matters is very supportive of the USFWS MOU measures implemented by the PUA and stated that they are here to support the PUA in this matter. He stated that they are planning to engage their attorney to conduct additional research regarding this lawsuit and provide this information to the PUA.

Ms. Nancy Hernandez addressed the Board as a Deer Creek Water Company customer. She said she is speaking on behalf of many Deer Creek customers regarding the Hilltop Manor project. She stated that there are concerns regarding water supply and other issues about the availability and impacts of providing water from Deer Creek to this project. She stated that she attempted to contact the owner of Deer Creek Water Company but has not yet received a response. She stated that the PUA has a duty to enforce the contract provisions and show compliance with USFWS MOU measures to protect other customers and the environment.

Ms. Miriam Wright stated that she was a longtime resident and remembered when LCRA had approved the MOU and required that developers abide by these rules. She stated that the PUA has accepted enforcement authority of these rules, and she expected that the PUA would also enforce these measures.

Mr. Peter Golde next addressed the Board as a Hamilton Pool Road resident. He stated that the Board was supportive and familiar with the 2000 USFWS MOU that related to the construction of the US 290 water pipeline and future water lines on Hamilton Pool Road and Ranch Road 12. He stated that the MOU remains in effect and is binding on successors in interest. The Hamilton Pool Road and hill country community are interested in continued enforcement of these MOU measures and that developers in Rocky Creek and Belvedere committed to more stringent measures than required by the MOU when developing on Hamilton Pool Road. He stated that the community is committed to these measures, and the PUA is commended to its compliance with the MOU and hope that the PUA will continue to abide by this commitment.

Rochelle Best next spoke, stating that she lives next to the proposed Hilltop Manor development. She stated that the PUA should impose the impervious cover restrictions and MOU measures required by Deer Creek Water Company's wholesale contract. She asked that the PUA demand Deer Creek's compliance and noted that her lot already has problems relating to erosion and adding additional development without enforcing these measures could make this worse.

Christy Muse with Shield Ranch spoke, stating that Shield Ranch is the second largest tract of land in Travis County off of Hamilton Pool Road, accounting for 10% of the Barton Creek Watershed. She stated 90% of the land has been committed to conservation easements. She stated that the ranch has been involved in development issues for decades, including when the MOU and the construction of the HPR waterline were originally negotiated. She stated that the PUA's vigilance was appreciated, and that the Ranch is there to support the PUA and be a partner at the table.

Charlie Flatten with the Hill Country Alliance next addressed the Board. He stated that the Alliance supports the previous spoken comments and supports and stands by the PUA's adherence to the USFWS MOU.



Lisa Rhoden next address the Board on behalf of Scenic Corridor Coalition, voicing her support of the PUA's enforcement of the USFWS MOU provisions. She asked that the PUA continue enforcing these measures, and as a resident downstream of the proposed Provence development, asked that the PUA keep the waters clean.

Ms. Christine Jesurun next addressed the Board as a resident of Deer Creek Ranch for 16 years. She stated that there had been many hardships experienced by her and her neighbors, stating that the water company had requested rate increases on three separate occasions. She stated that her neighbors had researched the water company and found that there were issues of noncompliance that were not fully enforced. She is concerned that the Hilltop Manor will be a similar situation and hoped that this issue stops with the PUA by enforcing the wholesale agreement.

Ariel Axelrod addressed the Board as a PUA customer stating that he had lived previously on Hamilton Pool Road. He stated that his concern is fairness, and the waterline on Hamilton Pool road was built on conditions that the PUA is tasked with enforcing. He stated that he had no concerns with increased rates due to the enforcement of the MOU policies.

#### **IV. CONSENT AGENDA**

- A. Approve minutes of March 15, 2018 regular Board Meeting.**
- B. Approve payment of outstanding invoices and other related bookkeeping matters.**
- C. Approve Construction Inspection Services Agreement with The Bridge Group.**

**MOTION:** A motion was made by Director Goodwin to approve the Consent Agenda Items IV.A and B, provided as **Exhibits A - B**. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: None

Director Goodwin asked about the redlines regarding quarterly billing and stated that seemed like a long period of time. Mr. Pugh stated that based on the experience with the Bridge Group and the detail in the invoices, that quarterly would be sufficient.

**MOTION:** A motion was made by Director Goodwin to approve the Agreement with the Bridge Group, provided as **Exhibit C**. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: None

- D. Approve Change Order No. 2 in the amount of \$93,582 for CFG Industries, LLC for repairs of water tanks and appurtenances, replacement of miscellaneous items, and substitution of improved interior water tank coating system at Home Depot and County Line Pump Stations.**

Director Goodwin stated that he had asked about the reasons for the change orders but stated that follow up information confirmed the reasoning for the change order, which was tied to discovered deterioration.

**MOTION:** A motion was made by Director Goodwin to approve Change Order No. 2, provided as **Exhibit D**. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Whisenant, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: None

Director Whisenant left the meeting at 11:10 a.m.

- E. Approve CP and Y, Inc. Engineering Services Proposal in the amount of \$36,495 for feasibility study and modeling services to extend effluent irrigation to Bee Cave City Park.**

Director Goodwin asked about this item and stated that the Backyard Development had proposed an effluent line to run through the Bee Cave City Park and provide some effluent. He asked why the PUA would duplicate this developer's efforts. Further, effluent water would be more valuable after the beneficial reuse project was implemented, and Bee Cave was not intending to pay for effluent. Director Goodwin questioned whether this proposal was timely.

Director Roberts questioned whether there may be duplication of efforts already undertaken by staff and Murfee Engineering. Director Walden confirmed that he didn't know if this was the right time to look at this proposal.

**MOTION:** A motion was made by Director Roberts to put this item on hold until it is determined what the Backyard Development will do. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

**F. Approve Agreement with City of Austin to transfer CCN to WTCPUA for Preserve at Oak Hill.**

Mr. Goodwin addressed this item, provided as Exhibit E. He asked about the diagram showing the parcel and asked if this was mostly in the PUA's CCN. Director Klein stated that approximately 2/3 of the parcel is in the PUA's CCN. In response to a question from Director Goodwin, Mr. Klein stated that the process is simple and costs were anticipated to be covered by the developer.

**MOTION:** A motion was made by Director Goodwin to approve the Agreement with the City of Austin to transfer CCN to WTCPUA for the Preserve at Oak Hill, provided as Exhibit E. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

Mr. Klein stated that the City of Austin approved this agreement as well.

**G. Approve Second Amendment to Parten Ranch Nonstandard Services Agreement.**

Director Goodwin asked for background on this item, provided as Exhibit F. Mr. Pugh stated that this item was to address some ambiguities regarding the original agreement and the first amendment that had not been addressed. He stated that impact fees were originally required to be prepaid at the time of final plat, and this amendment will have these fees be due at the time of acceptance of facilities. Additionally, Mr. Pugh stated that the phasing of the facilities in coordination with the CIP needed to be better coordinated to ensure provision of service and proper operation with no impacts on upstream customers.

Mr. Pugh stated that there was also an interconnect between Parten Ranch and Highpointe, and that this amendment clarified the timing that this connection would go in.

Mr. Lozano stated that Table One was originally drafted by Murfee Engineering and Director Goodwin asked what had changed. Mr. Lozano stated that Amendment No. 1 created changes that were being fixed by Amendment No. 2.

Director Goodwin confirmed that staff is using a template NSSA for developments.

**MOTION:** A motion was made by Director Goodwin to approve the Second Amendment to the Parten Ranch Nonstandard Services Agreement, provided as **Exhibit F**. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Whisenant

In response to a question from Director Roberts, Mr. Pugh stated that the agreement requires prepayment of impact fees and confirmed that reservation fees are being paid. Ms. Smith stated that customers that pay impact fees will be paying a minimum bill as an active customer, even if a tap had not yet been set.

**H. Approve Third Amendment to Highpointe Developer Agreement.**

Director Goodwin addressed this item, provided as **Exhibit G**. Director Goodwin stated that there is an easement for the Burba property that he understood but questioned the extension of the Reservation Period. Mr. Pugh confirmed that this extends the end date of the reservation period.

**MOTION:** A motion was made by Director Roberts to approve the Third Amendment to the Highpointe Developer Agreement, provided as **Exhibit G**. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Whisenant

**I. Approve Lease Agreement with Springhollow Municipal Utility District for Parten Ranch Development.**

Don Walden addressed this item, provided as **Exhibit H**. He asked this item be pulled and put on the May agenda to discuss in executive session with the attorney as this is a modified lease in comparison to other lease agreements with other customers. He stated he wanted additional information regarding the maintenance bonds, indemnification, tax compliance, and other terms as to how they may impact the PUA. He stated that in Florida the IRS went after a number of districts and took away tax exempt status, and he wants to make sure that if there are challenges relating to these bonds, or if the tax laws change, that the PUA is not liable.

**MOTION:** A motion was made by Director Roberts to pull this item and place on May agenda with executive session. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

**J. Approve Highpointe Phase 5 Section 3 Developer Reimbursement in the Amount of \$150,576.34.**

**MOTION:** A motion was made by Director Roberts to approve the Highpointe Phase 5, Section 3 Developer Reimbursement in the amount of \$150,576.34. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

**V. STAFF REPORTS**

**A. General Manager's Report.**

Mr. Pugh presented this item, provided as Exhibit I. He first outlined the processes that went into obtaining a reduction in Master Meter charges for meters.

Mr. Pugh next discussed the current audit process with wholesale customers, stating that the PUA had typically reviewed the customers records provided, but had never looked beyond these documents to confirm the information and the amount of impact fees being paid.

Director Roberts asked about contracts that limit the use of water, such as DSWSC, and if there are other customers taking more than the contract amount. Mr. Pugh stated that DSWSC takes a peak of 1 MGD. Director Roberts stated his concern that more water could be delivered through the meter than contractually reserved. Mr. Lozano addressed this item stating that the DSWSC meter is read daily, although more than 1 MGD could go through the meter.

Director Roberts asked if the meter flow could be restricted, to which Mr. Lozano stated that it would be difficult unless there was some type of smart meter to calculate flows. Director Roberts asked Mr. Lozano for additional information on the amount of water going through the meter.

Director Roberts asked if staff could ask Bee Cave, Drippings Springs, Hays County, and Travis County to inform the PUA when new developments are requesting plats in the PUA's service area.

The Board asked about Mr. Pugh's lunch with Pix Howell and he responded that they discussed the background of the PUA and generally became acquainted.

Director Goodwin asked about the meeting ESRI regarding GIS software, to which Mr. Pugh stated that this is exploring the possibility of bringing mapping in-house.

Director Roberts asked about Item 17, and Mr. Lozano stated that this TLAP application includes the beneficial reuse project, and that the permit amendment is in technical review at the TCEQ.

Director Roberts asked about the Bee Cave town hall meeting and how the item of the beneficial reuse program was received. Discussion ensued regarding the treatment of the beneficial reuse water, and Mr. Lozano confirmed that the new water would be sent directly to the water system.

Discussion ensued regarding the new website design.

Mr. Pugh stated that the PUA met with the City of Austin to discuss the proposed interconnect agreement, and that the relationship is cordial and the agreement is moving forward.

## **B. Controller's Report.**

Ms. Smith presented the Sterling Capital investment report, provided as **Exhibit J**, regarding investments through March 31, 2018. Mr. Virani, Sterling Capital, addressed the board and stated that since December rates have moved considerably to increase rates and the portfolio is positioned accordingly.

Director Roberts asked why the term "impact fee" was used, to which Ms. Smith stated that this is to address the impact to the system of new development. Director Roberts stated that he would prefer that this be called a capital recovery fee.

Mr. Klein stated that the Texas Local Government Code refers to "impact" fees which is why it is utilized. He stated that "capital recovery fee" can be referenced in the Tariff.

Ms. Smith presented the Controller's Report, provided as **Exhibit K**. She stated that the PUA is on track financially.

## **C. Engineer's Report including:**

- 1. Capital Improvements Plan Update.**
- 2. Impact Fee Study Update**

r. Lozano provided this report, provided as **Exhibit L**. He stated that the research showed strong growth of approximately 8% over the last two years. Discussions ensued regarding the projections for development. Director Roberts directed staff to reach out to wholesale customers to provide information regarding anticipated use in the land use assumptions and impact fee study.

Mr. Lozano referenced a graph that showed peak day usage compared to projections from the last land use assumptions, and then showed the proposed 2018 land use assumptions. He stated that while peak day usage shown in the land use assumptions graph has been flat, there is continuity between the LUE increase and average use, such that the definition of an LUE for average usage has not changed but that, based on his analysis, per connection peak day unit usage continues to drop. In response to a question from Director Goodwin, Mr. Lozano stated that this could be attributed to tiered rates and general social awareness of water conservation.

Mr. Pugh stated that staff was comfortable with Mr. Lozano's approach in developing the land use assumptions and projecting use.

Mr. Lozano next addressed the wastewater system land use assumptions. He stated that there is also a noted change in wastewater use to be lower than the previous projections. He stated that there has been almost 20% growth in the PUA system since the transition from the LCRA and that these numbers don't necessarily change whether or not facilities are added, but rather changes the allocations between existing needs and needs for future growth.

In response to a question from Director Goodwin, Mr. Lozano stated that the quality of the influent is typically affected by the lower flow. Discussion ensued regarding the quality and quantity of wastewater and planning for future wastewater facilities.

Director Roberts asked whether the Lake Pointe WWTP could ever be taken offline with other system improvements. Mr. Lozano stated that he would look at this possibility. Director Roberts asked if commercial flows could all be diverted to the Bohls WWTP, to which Mr. Lozano stated that it may be possible, but there are some major points of comingling that would have to be reviewed.

Director Walden stated that he has been following the Rocky Creek wastewater treatment plant, and that they found the same higher concentration than planned that Mr. Lozano referenced in the PUA system, and that this affected the Phase 2 design of the Rocky Creek facilities.

Mr. Pugh stated that the next step would be to send letters to wholesale customers asking for confirmation of LUE projections for demand, then at the next meeting present the CIP projects and costs. After this information is presented, the PUA's rate consultant would then prepare an impact fee study. The Board asked that Mr. Pugh send a proposed date for a work session at the May meeting.

Director Goodwin next addressed the engineer's report, provided as **Exhibit M**

At 12:14 p.m., Director Roberts announced that the Board would convene in executive session to consult with its attorney under Texas Government Code 551.071 regarding Items VI. B/VII. A; G.

At 12:47 p.m., Director Roberts announced that the Board would convene in open session and that no action had been taken.

- D. Operations Report including:**
- 1. PRV maintenance plan update.**
  - 2. Elimination of annual equipment rental costs.**

This report was provided as **Exhibit N.**

Director Goodwin addressed Mr. Cantu, asking about an injury sustained by an employee. Mr. Cantu stated that they are waiting for an additional update.

Mr. Pugh asked Mr. Cantu to outline the cost savings identified in the memorandum. Mr. Cantu stated that there are some lease agreements, such as the carbon vessel used to treat odors, that were addressed to reduce costs. He stated that the cost for the carbon vessel was mitigated by purchasing the system versus leasing it, and the return on the investment is anticipated in less than a year. Similar changes were made regarding the frac tank.

## **VI. OLD BUSINESS**

- A. Discuss, consider and take action regarding pending and/or anticipated litigation, including:**

- 1. Travis County Municipal Utility District No. 12 v. West Travis County Public Utility Agency; in the 201<sup>st</sup> Judicial District Court, Travis County, Texas; Cause No. D-1-GN-16-002274.**

At 10:03 a.m., Director Roberts announced that the Board would convene in executive session to consult with its attorney under Texas Government Code 551.071 regarding Item VI. A. and VII. F/1.

At 10:27 a.m., Director Roberts announced that the Board would convene in open session and that no action had been taken.

- 2. Williams R. Holms v. West Travis County Public Utility Agency; in Travis County Court of Law #2; C-1-CV-17-003601**

This item was discussed in executive session.

- B. Discuss, consider and take action on amendments to WTCPUA Service and Development Policies.**

This item was discussed in executive session.

- C. Discuss, consider and take action on office building options for WTCPUA Administration and Customer Service operations.**

Mr. Pugh presented on this item, providing a status memo as **Exhibit O.** He stated that the Galleria Oaks property was considered to be the best fit for future office space. Mr. Pugh went through the



list of items negotiated as a component of the lease agreement. He stated that the building is on Bee Cave Parkway just before 620.

Mr. Pugh asked for authorization to approve the included agreement and to execute a formal lease agreement.

**MOTION:** A motion was made by Director Goodwin to approve the agreement and authorization to execute a formal lease agreement. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Whisenant

Director Walden asked that Mr. Pugh see if there could be an option to go beyond 5 years, and potentially seek a 7-year lease with the option to go 2 years beyond the initial 7 years.

## **VII. NEW BUSINESS**

### **A. Discuss, consider and take action on Wholesale Agreement with Deer Creek Ranch Water Company, LLC.**

Director Goodwin asked whether the Hilltop Manor plat had been approved by Travis County. Mr. Lowenthal stated that there is a two-step process where the replat would be approved, and then later the site plan. He stated that neither had been approved by Travis County at this point. He stated that he would like a resolution from the Board supporting implementation of MOU measures.

Director Roberts stated that he was already asking the Board to authorize sending a letter to Hays County/City of Dripping Springs about including plat notes relating to USFWS MOU compliance.

**MOTION:** A motion was made by Director Roberts for Staff to contact Travis County to notify Hays County that Deer Creek Water Company must comply with the USFWS MOU, and that plans submitted be reviewed under these standards, and further directed Staff to draft letter to Dripping Springs, Travis County, Hays County, and Bee Cave, asking that all future plats include a plat note requiring compliance with the MOU, and that such letter be brought to the Board at the next meeting for approval. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Whisenant

Mr. Goodwin asked whether there were other enforcement measures available, and Ms. Albright mentioned that the Public Utility Commission has jurisdiction over the Deer Creek Water Utility.

Director Walden stated that the plat note has enforcement jurisdiction from the different entities approving and stated that there can be multiple notes regarding this compliance issue that can assist with enforcement.

Director Roberts asked that Director Walden work with staff on this issue.

**B. Discuss, consider and take action regarding plat review and USFWS MOU requirements in plats by Hays County and the City of Dripping Springs.**

This item was discussed in executive session.

**C. Discuss, consider and take action on filling vacancy on WTCPUA Finance Committee.**

Ms. Smith presented this item, stating that currently Director Walden is the only member on the committee.

**MOTION:** A motion was made by Director Roberts to appoint Director Whisenant. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

**D. Discuss, consider and take action on appointment of new Vice President to WTCPUA Board.**

**MOTION:** A motion was made by Director Goodwin to appoint Director Walden as Vice President. The motion was seconded by Director Roberts.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant  
Abstain: Director Walden

**E. Discuss, consider and take action on resignation of Michael Slack from Impact Fee Advisory Committee, and nominations for replacement.**

Mr. Pugh stated that Mr. Slack was a developer member and asked for input and direction regarding a new developer appointee.

Director Walden stated it would be good to find a director on the 290 System. Director Roberts stated that he would touch base with staff regarding recommendations.

**F. Discuss, consider and take action regarding pending and/or anticipated litigation, including:**

1. *John Hatchett, Sandra Hatchett and JPH Capital, LLP v. West Travis County Public Utility Agency; in the 201st Judicial District Court, Travis County, Texas; Cause No. D-1-GN-18-001654.*

This item was discussed in executive session.

**G. Discuss, consider and take action regarding non-payment of annual reservation fees for Nonstandard Service Agreements (NSSAs) including:**

1. The Backyard Project
2. The Terrace Project.

Director Goodwin confirmed that there are two notices of default, one for each project referenced on the agenda, adding up to approximately \$380,000 that was due in December 2017. Director Goodwin confirmed with Ms. Smith that the PUA is not obligated to invoice for reservation fees, to which Ms. Smith confirmed that the developer is obligated to pay the reservation fees. She stated that the reservation fees were due December 16, and that 30 days was allowed for payment. She stated that a reminder and a past due notice were sent to Chris Milam and his attorney Steve Metcalfe, to the contact information provided in the NSSA. Ms. Smith stated both invoices sent to Chris Milam were returned due to finding out later that the email address in the NSSA being incorrect, but the attorney did receive the invoicing.

Director Roberts confirmed that Ms. Smith has the correct information, and that a follow up billing invoice was sent and received.

Director Goodwin referenced a notice of default, provided as **Exhibit P**, which includes a statement that the reservation be paid by May 11, 2018.

**MOTION:** A motion was made by Director Roberts to send termination letter if payment not received by May 11, 2018. The motion was seconded by Director Walden.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska

Voting Nay: None

Absent: Director Whisenant

## VIII. ADJOURNMENT

**MOTION:** A motion was made by Director Roberts to adjourn. The motion was seconded by Director Goodwin.

The vote was taken with the following result:

Voting Aye: Directors Roberts, Goodwin, Walden, and Brzoska  
Voting Nay: None  
Absent: Director Whisenant

The meeting adjourned at 1:58 p.m.

PASSED AND APPROVED this \_\_\_ day of May, 2018.

---

Scott Roberts, President  
Board of Directors

ATTEST:

---

Ray Whisenant, Secretary/Treasurer  
Board of Directors

## **ITEM B**

**West Travis County PUA- GOF**  
**Cash Flow - Manager's Account**  
**As of April 30, 2018**

<b>Number</b>	<b>Name</b>	<b>Memo</b>	<b>Amount</b>
23957762	The HT Group	Staffing	\$ (1,138.10)
24009114	HydroPro Solutions, LLC	Meters	\$ (17,269.25)
15291	South Madrone Trail Water, Inc.	Subsequent User Fee	\$ (15,500.00)
24022054	Brenntag Southwest Inc.	Chemicals	\$ (1,081.88)
24013751	Edgestone Automotive	Vehicle Maintenance	\$ (1,102.49)
24042546	Lloyd Gosselink Rochelle & Townsend, P.C.	Legal Fees	\$ (6,558.00)
24039412	Lloyd Gosselink Rochelle & Townsend, P.C.	Legal Fees	\$ (10,477.40)
24018972	Rain For Rent	Repair & Maintenance	\$ (1,285.20)
24091981	Aqua-Tech Laboratories, Inc	Pre-Treatment/ Lab Fees	\$ (9,661.09)
24076632	Calabria Investments L.P.	2017 Operating True UP	\$ (3,186.69)
24072812	Fluid Meter Service, Corp	Repair & Maintenance	\$ (2,825.00)
24062983	Guardian Industrial Supply LLC	Repair & Maintenance	\$ (276.02)
24080148	Ice Works	Rental Fee	\$ (137.50)
24110671	Odessa Pumps & Equipment Inc,	Replacement Pump- Lift Station #4	\$ (6,277.14)
24065256	Stratus Building Solutions	Janitorial Services	\$ (175.00)
24077973	TxTag	Toll Charges	\$ (5.50)
24064678	USABlueBook	Repair & Maintenance	\$ (1,036.85)
24129833	Core & Main LP	Repair & Maintenance	\$ (196.12)
24125299	Elliott Electric Supply, Inc	Repair & Maintenance	\$ (5.14)
24132431	Grainger	Repair & Maintenance	\$ (30.80)
24132331	Smith Pump Company, Inc.	Repair & Maintenance	\$ (2,384.16)
24166096	Guardian Industrial Supply LLC	Repair & Maintenance	\$ (214.20)
24164222	Ice Works	Ice Purchase	\$ (449.50)
24185181	Maxwell Locke & Ritter LLP	Audit- Reimbursable Costs for Highponte	\$ (10,000.00)
ACH	City of Austin 04065 16047	Utilities	\$ (214.45)
24278015	ACT Pipe & Supply	Repair & Maintenance	\$ (263.72)
24282900	Airgas USA, LLC	Repair & Maintenance	\$ (33.57)
24279621	Aqua-Tech Laboratories, Inc	Laboratory Fees	\$ (35.91)
24280535	AT&T Mobility-CC	SCADA System Cellular Network	\$ (872.98)
24314767	AVR Inc.	Billing Services- January & February 2018	\$ (9,386.14)
24276898	Brenntag Southwest Inc.	Chemicals	\$ (3,517.78)
24292777	Capitol Rubber Stamp	Office Supplies	\$ (18.45)
ACH	CFG Industries, LLC	Tank and Pump Station Coating Imp.-Pay app #28	\$ (177,916.00)
24307812	City of Austin 44118 09855	Utilities	\$ (14,792.74)
24288752	Concentra	Medical Testing	\$ (87.00)
24280028	Courtney and Paul Sumner	Customer Deposit Refund	\$ (58.22)
24287943	Department of Information Resources	Internet Services	\$ (167.78)
24312593	Douglas Burns	Customer Refund for Overpayment	\$ (6,762.69)
24282124	Elliott Electric Supply, Inc	Repair & Maintenance	\$ (774.89)
24294187	Ferguson Enterprises, Inc.	Repair & Maintenance	\$ (3,883.68)
24288531	GP Equipment Company	Repair & Maintenance	\$ (502.50)
24308196	Hays County MUD No 4	Wastewater Billing Collections	\$ (6,382.06)
24296534	Hill Country Office Systems	Copy Machine Maintenance- Quarterly	\$ (871.84)
24281433	Jacklynn and David Schoenemann	Customer Deposit Refund	\$ (14.15)
24291693	Kenneth Tam	Customer Deposit Refund	\$ (62.04)
24296103	Lake Travis Youth Assn	Customer Deposit Refund	\$ (1,811.66)
24284071	Landesign Services Inc.	Easement Survey - Estates at Sawyer Ranch	\$ (2,900.00)
24316518	Landmark Structures I, LP	1340 Elevated Storage Tank- Pay App #1	\$ (28,975.00)
24277042	McCoy's Building Supply	Repair & Maintenance	\$ (497.68)
24282747	Michael Buss and Sarah Clayton	Customer Deposit Refund	\$ (3.24)
24315974	Neltronics	SCADA Repair & Maintenance	\$ (8,034.40)
24276604	Omni Site	Repair & Maintenance	\$ (216.26)

**West Travis County PUA- GOF**  
**Cash Flow - Manager's Account**  
**As of April 30, 2018**

24298972	Patrick & Heather Jean	Customer Deposit Refund	\$	(98.59)
24286976	Precision Calibrate Meter Services	Meter - Water Plant	\$	(4,600.00)
24280003	Pump Mechanical Technical Services, LLC	Repair & Maintenance	\$	(650.00)
24297753	Republic Services Inc.	Garbage Expense	\$	(626.52)
24298483	Rim Rock Community, Inc	Customer Deposit Refund	\$	(982.32)
24310720	Techline Pipe, LP	Control Valve-HS Pump #2	\$	(24,516.88)
24313886	The Bridge Group	Construction Inspection Fees	\$	(24,990.00)
24294947	The HT Group	Staffing	\$	(2,396.00)
24287710	Time Warner 39409	Phone Service- Spanish Oaks Lift Station	\$	(102.68)
24273367	Time Warner 48749	Internet Service- Admin Office	\$	(125.64)
24287312	Time Warner 70172	Internet Service- Water Plant	\$	(239.99)
24319694	U.S. Underwater Services, LLC	Roof Vent- Pump Station #1	\$	(9,075.00)
24276010	USABlueBook	Repair & Maintenance	\$	(889.17)
24281074	Vintage IT Services	IT Services	\$	(3,157.00)
24320586	Wastewater Transport Services, LLC	Sludge Disposal	\$	(70,670.00)
24316375	Antx.Inc	Office Supplies	\$	(300.00)
24346214	Brenntag Southwest Inc.	Chemicals	\$	(14,110.58)
24341030	City of Austin 07107 11753	Utilities	\$	(64,381.03)
15292	City of Austin.	2018 Barton Creek Zone Permit Fee	\$	(2,094.00)
24314878	Core & Main LP	Repair & Maintenance	\$	(180.68)
24314209	Discount Tire	Vehicle Maintenance	\$	(806.00)
24319630	Half Associates, Inc.	Review Fees	\$	(3,675.00)
24306680	HydroPro Solutions, LLC	Repair & Maintenance	\$	(540.00)
15293	Pedernales Elec Coop, Inc.	Utilities	\$	(7,146.07)
24340455	Time Warner 65198	Telephone/Internet- Customer Service	\$	(812.00)
24345766	United Rentals, Inc.	Rental Equipment	\$	(297.57)
24380768	BB&T - Bourland	Credit Card Purchases	\$	(1,348.47)
24402892	BB&T - Cantu	Credit Card Purchases	\$	(9,495.36)
24386758	BB&T - Harkrider	Credit Card Purchases	\$	(1,427.85)
24372896	BB&T - Jeffrey	Credit Card Purchases	\$	(1,944.60)
24381977	BB&T - Main Office 4972	Credit Card Purchases	\$	(1,284.64)
24376358	BB&T - Pugh	Credit Card Purchases	\$	(1,052.98)
24373391	BB&T - Rendon	Credit Card Purchases	\$	(629.43)
24381962	BB&T - Sarot	Credit Card Purchases	\$	(1,109.05)
24380200	BB&T - Sifuentes	Credit Card Purchases	\$	(961.72)
24384977	BB&T - Smith	Credit Card Purchases	\$	(1,711.58)
24380610	Capitol Courier	Delivery Fees	\$	(69.09)
24372069	City of Austin 39975 21324	Utilities	\$	(91.55)
24361254	Neopost	Postage	\$	(200.00)
24385203	Pump Mechanical Technical Services, LLC	Spillman Pump Station Motor	\$	(4,470.00)
24375595	Time Warner 27088	Internet Services- Lakepointe WWTP	\$	(130.66)
24372519	Wastewater Transport Services, LLC	Sludge Disposal	\$	(1,560.00)
15294	BB&T - Strickland	Credit Card Purchases	\$	(1,923.22)
ACH	City of Austin 71822 19829	Utilities	\$	(12,523.79)
24522277	Ace Contractor Supply	Repair & Maintenance	\$	(2,109.46)
24527228	ACT Pipe & Supply	Repair & Maintenance	\$	(4,248.41)
24515634	AT&T	Phone Service	\$	(2,186.62)
24529314	AT&T Wireless	Wireless Phone Service	\$	(2,309.13)
24530473	Austin Armature Works, LP	Repair & Maintenance	\$	(2,570.00)
24549301	AVR Inc.	Billing Services- March 2018 & Billing Insert	\$	(11,078.10)
24550516	Brenntag Southwest Inc.	Chemicals	\$	(14,326.72)
24562856	Calabria Investments L.P.	Lease Expense	\$	(5,005.00)
24521293	City of Austin 22455 82422	Utilities	\$	(156.80)
24538007	City of Austin 39852 19450	Utilities	\$	(240.82)

**West Travis County PUA- GOF**  
**Cash Flow - Manager's Account**  
**As of April 30, 2018**

24533220	City of Austin 54002 73163	Utilities	\$	(192.50)
24551429	CP&Y	Uplands WTP Trident / Office Building Improver	\$	(18,632.50)
24533833	Discount Tire	Vehicle Maintenance	\$	(806.00)
24516642	DSHS Central Lab	Laboratory Fees	\$	(675.52)
24517126	Edgestone Automotive	Vehicle Maintenance	\$	(1,306.83)
24538592	Elliott Electric Supply, Inc	Repair & Maintenance	\$	(945.49)
24529277	Evergreen Southwest	Pre-Treatment Chemicals	\$	(2,725.00)
24515289	Ewing Irrigation and Landscape Supply	Repair & Maintenance	\$	(841.37)
24538850	Ferguson Enterprises, Inc.	Repair & Maintenance	\$	(562.23)
24517360	Grainger	Repair & Maintenance	\$	(156.25)
24519543	HarHos Bee Caves, LLC	Lease Expense- Suite 130	\$	(3,091.10)
24553527	HarHos Bee Caves, LLC	Lease Expense- Suite 120	\$	(6,124.18)
24533936	Kimco Services Inc	Repair & Maintenance	\$	(2,200.00)
24526205	Kor Terra	Repair & Maintenance	\$	(1,200.00)
24525424	Lower Colorado River Authority	Purchase Water/Reservation Fee	\$	(2,859.89)
24569893	Lower Colorado River Authority	Purchase Water/Reservation Fee	\$	(71,555.16)
24515075	McCoy's Building Supply	Repair & Maintenance	\$	(91.46)
24522469	Net Solutions and Security, LLC	Monthly Brivo Subscription	\$	(310.00)
24515080	PostNet TX144	Postage	\$	(32.48)
24524813	The HT Group	Staffing	\$	(958.40)
24567068	The Wallace Group Inc	Lakepointe WWTP Improvement	\$	(15,990.00)
ACH	Travis County MUD No 16	Wastewater Billing Collections	\$	(29,823.69)
24516850	USABlueBook	Repair & Maintenance	\$	(194.11)
24535459	USIC Locating Services, LLC	Locating Services	\$	(3,683.28)
24552616	The HT Group	Staffing	\$	(1,198.00)
TOTAL			\$	<u>(850,113.07)</u>



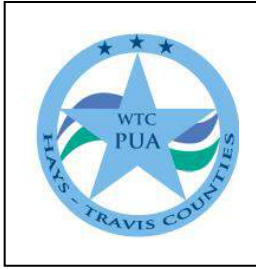
# West Travis County PUA - GOF

## Cash Flow -Payroll Account

As of April 30, 2018

Num	Name	Memo	Amount
<b>11117 · Payroll</b>			
PAYROLL	Employee Payroll	Payroll -3/19/2018-4/1/2018	-59,788.94
ACH	ExpertPay	Expert Pay- Child Support	-173.02
PAYROLL	United States Treasury	Payroll Liability Payment- 3/19/2018-4/1/2018	-19,130.12
ACH	Child Support Systems	Child Support Remittance	-493.83
ACH	Security Benefits	457 Employee Contribution	-1,581.56
PAYROLL	Employee Payroll	Payroll -4/2/2018-4/15/2018	-980.36
PAYROLL	Texas Workforce Commission	Texas SUI Payment-2018 1st Quarter	-175.74
ACH	Texas County DRS	TCDRS Payment-February	-28,049.10
PAYROLL	Employee Payroll	Payroll -4/2/2018-4/15/2018	-56,915.23
ACH	ExpertPay	Expert Pay- Child Support	-173.02
PAYROLL	United States Treasury	Payroll Liability Payment- 4/2/2018-4/15/2018	-18,002.86
ACH	Security Benefits	457 Employee Contribution	-1,473.23
ACH	Child Support Systems	Child Support Remittance	-493.83
Total 11117 · Payroll			-187,430.84
<b>TOTAL</b>			<b>-187,430.84</b>

## **ITEM C**



## **WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
Fax: 512/263-2289  
wtcpua.org

May 21, 2018

Mr. Hunter Shadburne, P.E.  
Austin Civil Engineering, Inc.  
4910 W U.S. Hwy 290, Suite #220  
Austin, TX 78735

Re: Service Availability  
Mantra Medical Offices  
12316 F.M. 1826  
Austin, TX 78737

Dear Mr. Shadburne:

The West Travis County Public Utility Agency (WTCPUA) has completed its review of requested water service for a Medical Offices Building facility. Service Availability for eleven (11) LUEs of water allocation are approved subject to the Applicant complying with the Service Extension Request (SER) Conditions below:

### **SER CONDITIONS**

1. The Applicant enters into a Non-Standard Water Service Agreement with the PUA for eleven (11) LUEs of water service within three (3) months of the date of the letter.
2. The Applicant completes the review process of technical plans associated with its proposed development, including submitting plans that meet PUA requirements for approval prior to release for construction. The Applicant shall also be required to pay all engineering review fees, legal fees and inspection fees associated with this process.
3. The Applicant constructs, at Applicant's sole cost and expense, all water service extensions of facilities necessary to facilitate retail service to the Property.
4. The PUA inspects and accepts the facilities per the approved construction plans and specifications.
5. The Applicant, at its sole cost and expense, grants to the PUA all on-site and off-site easements necessary for the PUA to own and operate the facilities in a form and manner acceptable to the PUA.

Mr. Hunter Shadburne, P.E.

Page 2

May 21, 2018

6. Prior to release of water meters for the Property, the applicant shall submit close out documents including final plat and executed and recorded easements per the attached list, as well as an executed Conveyance Agreement.
7. Customers applying for service in the Property will have to pay all fees including connection fees, impact fees per LUE, and meter drop in fees.
8. Applicant shall pay the PUA annual Water Reservation Fees as applicable per PUA Tariff and policies.
9. The Applicant shall follow and comply with all applicable PUA Tariff, policies, rules and regulations pertaining to water service, as amended from time to time by the WTCPUA Board of Directors.
10. The Applicant will be required to secure a Legal Lot Determination from Hays County or secure an approved subdivision plat in Hays County, Texas for the Property within four (4) years from the date of this letter.
11. Provisions of water to the Property by the PUA shall become null and void if final construction plans have not been approved by the PUA for the Project within four (4) years from the date of this letter.
12. The Applicant shall adopt one of the alternative water quality measures required of the new development as specified in that certain "Memorandum of Understanding" between the LCRA and the United States Fish and Wildlife Service (USFWS), dated May 24, 2000 (MOU) and the "Settlement Agreement and Stipulation of Dismissal" from the lawsuit, Hays County Water Planning Partnership, et. al. vs. Lt. General Robert B. Flowers, U.S. Army Corps of Engineers, Thomas E. White, Secretary of the Army, Gale Norton, Secretary of the Department of the Interior, and the Lower Colorado River authority, W.D. Tex. 2002 (No. AOOCA 826SS) (Settlement Agreement) including:
  - a. Measures approved by the USFWS through separate Section 7 consultation, or other independent consultation;
  - b. TCEQ optional enhanced measures, Appendix A and Appendix B to RG-348; or
  - c. U.S. Fish and wildlife Service Recommendations for Protection of Water Quality of the Edwards Aquifer dated September 1, 2000;

Please be advised that conditions may change over time and the PUA will not reserve or commit water capacity to the Property until all conditions listed above are met. If, for any reason, that system capacity is exceeded prior to connection to the system, then this property is subject to a moratorium of any additional connections which may be declared. Also, please be advised that the PUA will not provide direct fire flow service to the Property and, as such, the Applicant may be required to install and maintain fire service facilities needed to meet local fire code regulations and requirements.

If you have any questions concerning this matter, please contact Judith A. Coker at 512-263-0100.

Sincerely,



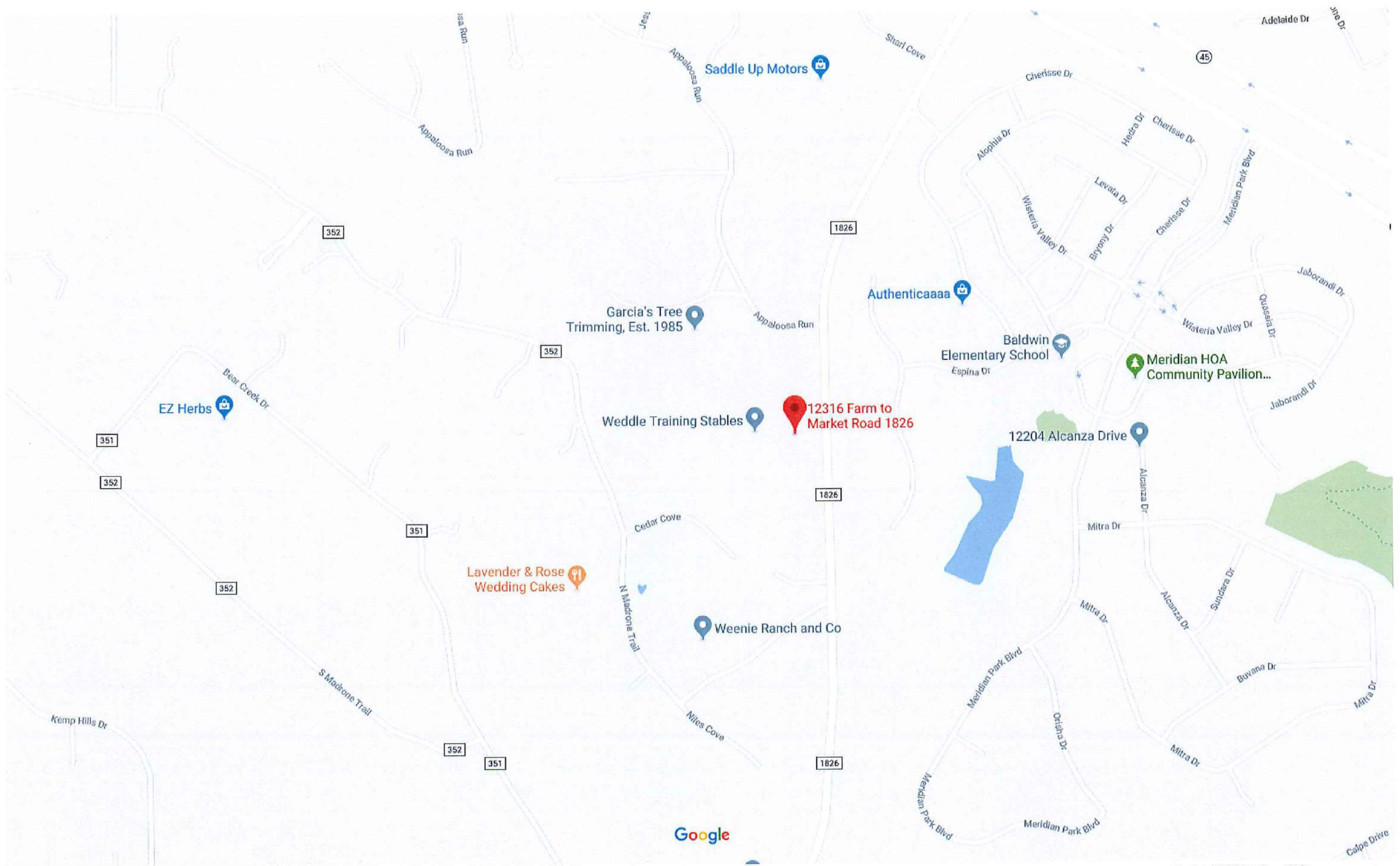
Robert W. Pugh,  
General Manager

Mr. Hunter Shadburne, P.E.

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May 21, 2018

Cc: Reuben Ramirez  
Jennifer Smith  
Keli Kirkley  
Jennifer Riechers  
Judith Coker  
Pierce Powers  
Stephanie Albright, Lloyd Gosselink Rochelle & Townsend, P.C.  
Ronee Gilbert, Murfee Engineering Company, Inc.  
Mr. Sanjay Patil, Mantra Medical



## **ITEM D**

**SECOND AMENDMENT TO THE AMENDED AND RESTATED  
AGREEMENT FOR THE PROVISION OF NONSTANDARD  
RETAIL WATER SERVICE  
(GRUMBLES PROJECT)**

This Second Amendment to the Amended and Restated Agreement for the Provision of Nonstandard Retail Water Service (the “Second Amendment”) is entered into by and between the West Travis County Public Utility Agency (the “WTCPUA”) a public utility agency operating pursuant to Chapter 572, Texas Local Government Code, and 4UT Investments, LLC, a Texas corporation (“Developer”). Unless otherwise specified, the term “Parties” shall mean the WTCPUA and Developer, collectively.

WHEREAS, Developer and the WTCPUA entered into that First Amended and Restated Agreement for the Provision of Nonstandard Retail Water Service on November 17, 2016 (the “Agreement”), pursuant to which the WTCPUA agreed to provide 81 LUEs of retail water service to the 128-acre Development Tract for the Proposed Development;

WHEREAS, Developer has requested that the WTCPUA adjust the Developer’s reserved capacity for the Development Tract from 81 LUEs to 76 LUEs of retail water service to serve the Proposed Development;

WHEREAS, Developer and the WTCPUA desire to enter into this Second Amendment to set forth additional terms and conditions upon which the WTCPUA will provide retail water service to the Proposed Development; and

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree to amend the Agreement as follows:

**1. Amendment to Agreement.**

Section 2.1 is amended as follows:

For and in consideration of Developer’s obligations, covenants and conditions set forth in this Agreement, WTCPUA reserves and agrees to provide up to ~~81~~ 76 LUEs of retail water service for Retail Customers located within the Development Tract pursuant to the terms of this Agreement, as amended, and the WTCPUA’s Rules and Policies. In no event shall WTCPUA be obligated to provide retail water service to Retail Customers located within the Proposed Development or Development Tract that collectively exceed ~~81~~ 76 LUEs.

Section 4.2 is amended as follows:

Developer shall pay water Impact Fees as provided in Chapter 395 of the Texas Local Government Code prior to the commencement of service and setting of the retail meter to the Proposed Development. Developer shall pay water Impact Fees for a total of ~~81~~ 76 LUEs.



Section 4.3 is amended as follows:

**Section 4.3. Reservation Fees.** Developer shall annually pay Reservation Fees for water service during the Reservation Period. Reservation Fees shall be calculated by multiplying the current Reservation Fee as contained in the WTCPUA Rules and Policies at the time of each anniversary of the Effective Date of this Amended Agreement times the number of unused LUEs reserved for the Developer pursuant to this Amended Agreement. Developer shall calculate and pay annual Reservation Fees for reserved water LUEs on each annual anniversary of the commencement of the Reservation Period (“Due Date”). If Developer pays the Reservation Fees prior to or on the Due Date, the LUEs for which Reservation Fees have been paid will be considered to be in “reserved status” for the next contract year in the Reservation Period. Reservation Fees are non-refundable and non-reimbursable. If Reservation Fees are not paid on the Due Date, such nonpayment shall be an event of default. **If Developer fails to pay Reservation Fees on the Due Date, the WTCPUA may terminate this Amended Agreement, with immediate effect, by giving notice to the Developer.** Any remaining LUEs for which Reservation Fees are not paid will no longer be considered in “reserved status”.

Should Developer transfer or assign this Amended Agreement, neither the reservation of nor right to reserve LUEs shall be automatically assigned to any future successor in interest of the Developer as a component of any assignment of this Amended Agreement without express written consent of the WTCPUA.

Reservation Fees for the initial year of the Reservation Period shall be paid not later than six (6) months from the date of approval of the Original Agreement by the WTCPUA Board of Directors if a water meter or meters having up to ~~84~~ 76 LUEs of water service has not been installed in accordance to WTCPUA Tariff provisions. Any LUEs in reserved status, but which are connected and for which impact fees are paid during the six (6) month grace period, will be deducted from the number of LUEs for which the initial years’ Reservation Fees are due.

Furthermore, the Developer agrees and understands that the WTCPUA’s commitment of ~~84~~ 76 LUEs of water service runs with and is assigned to the Proposed Development.

Section 5.1 is amended as follows:

This Amended Agreement shall become effective upon the latest date of execution by either the Developer or the WTCPUA (the “Effective Date”). WTCPUA may terminate this Amended Agreement upon written notice to Developer for any of the ~~84~~ 76 LUEs for which a Retail Customer has not requested service in accordance with the WTCPUA Rules and Policies by the fourth anniversary of the Effective Date. The Parties may extend the termination deadlines in this Section upon written amendment of this Amended Agreement. Unless otherwise earlier terminated, this Amended Agreement shall extend

from the Effective Date for as long as the WTCPUA provides service to Retail Customers located in the Proposed Development.

**2. Defined Terms.**

All capitalized terms that are not otherwise defined herein shall have the meanings set forth in the Agreement.

**3. Effect on Agreement.**

The terms of the Agreement are hereby modified and amended pursuant to the terms of this Second Amendment. Except as otherwise expressly amended by this Second Amendment, all other terms and conditions of the Agreement remain in full force and effect, and are hereby confirmed and ratified.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Second Amendment which is effective as of the date of the last signature to this Second Amendment.

*[Signature pages to follow]*

**WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

By: \_\_\_\_\_  
M. Scott Roberts, President  
Board of Directors

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ray Whisenant, Secretary  
Board of Directors

DRAFT

#### **4UT INVESTMENTS**

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

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

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

Date: \_\_\_\_\_

DRAFT

## **ITEM F**

**An Agreement for the Provision of Limited Professional Services**

Murfee Engineering Co., Inc.  
1101 Capital of Texas Hwy. South, Bldg. D  
Austin, Texas 78746  
(512) 327-9204  
dlozano@murfee.com

Client: WTC Public Utility Agency  
12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738

Date: March 26<sup>th</sup>, 2018      Project No.: 51177.20      WTCPUA Work Order No. \_\_\_\_\_

Project Name: Provence - MUD 22 Elevated Storage Tank Construction Oversight

Scope/Intent and Extent of Services: Murfee Engineering Company, (MEC) proposes to provide the WTCPUA with engineering support, oversight of submittals, and construction observation for the above-referenced project.

Fee Arrangement: Time and materials in accordance with the approved rate sheet with an estimated fee as follows and detailed on the attached man-hour allocation:


Construction Meetings (up to 4 meetings)	\$ 4,080
Submittal Oversight	\$ 10,500
Construction Observation	\$ 38,600
<u>Engineering Support</u>	<u>\$ 7,000</u>
Total	\$ 60,180

The estimated fees do not include review fees, submittal oversight of electrical portions of the project, concrete and soil compaction testing, welding and painting testing, or direct reimbursable expenses. Additional Services fees must have WTCPUA approval prior to expenditure. The Contract amount for this project shall not exceed the total amount of \$60,180 as listed above without Board approval by the WTCPUA.

Terms and Conditions: The approved Terms and Conditions are a part of this agreement.

Offered By:  
Murfee Engineering Co.

By:

  
Dennis Lozano, P.E.  
Vice President

Date

Accepted By:  
WTC Public Utility Agency

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Printed Name/Title)

Austin, Texas 78746

**Notes:**

## **ITEM G**





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**West Travis County Public Utility Agency  
Memorandum**

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TO: Board of Directors

FROM: Robert W. Pugh, General Manager

CC:

SUBJECT: Sublease Brokerage Agreement – Peloton Commercial Real Estate

DATE: May 17, 2018

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At its April 19, 2018 meeting, the Board of Directors approved executing a lease Agreement with Hill Country Texas Galleria LLC, for a new combined Administration and Customer Service Office at Galleria Oaks, Building B.

As presented at the March 15, 2018 meeting, the Customer Service Office Lease at Calabria expires October 1, 2018 and the Triton Center Office Lease expires May 31, 2019.

The Lease start date for Galleria Oaks, Building B has been planned to start on October 1, 2018. Per our Lease Agreement with the Triton Center, WTCPUA (PUA) has the right to pursue a sublease agreement to cover lease expenses from October 1, to May 31, 2019, subject to Triton Center approval. The Triton Center will actively market for a permanent lease replacement for the PUA, but will not market for a sublessor since this would result in dual representation (i.e., conflict of representing a potential sublease tenant and also representing the Triton Center owner (Landlord)).

Accordingly, the Triton Center recommends that we actively market our Triton Center office availability as a sublease through another broker. Per the attached letter, Kevin Granger of Peloton Commercial Real Estate has offered to represent the PUA to find a sublease tenant. The maximum commission to be paid would be 6%, either 4% if Peloton is the sole broker or 6% if there is a selling broker in addition to Peloton.

Board of Directors

Page 2

May 17, 2018

We recommend that the Board approve this sublease brokerage representation agreement with Peloton Commercial Real estate to facilitate obtainment of a sublease tenant for the PUA's current office space at Suites 120/130 of the Triton Center.

Thank you for your consideration.

*To Be Placed on Sublessor's Letterhead*

May 7, 2018

Mr. Kevin Granger  
Partner  
Peloton Commercial Real Estate  
221 W. Sixth Street, Suite 100  
Austin, TX 78701

**RE: LETTER OF REPRESENTATION**

Dear Kevin:

This letter shall constitute our appointment of Peloton Commercial Real Estate, "Agent", as the representative of West Travis County Public Utility Agency, "Sublessor" for marketing and subleasing office space in the Triton Center, Building 3, located at 12117 Bee Cave Road, Suite 120, Austin, Texas 78738. The office space, Suite 120, is located on the first floor and is approximately 3,907 square feet of Net Rentable Area.

In consideration of such appointment, Agent shall make available all information in such detail as to provide Sublessor sufficient information on which to make a sublease decision. Agent shall negotiate on behalf of Sublessor, however shall make no commitments for or on behalf of the Sublessor.

Agent agrees to treat all information received from Sublessor regarding Sublessor's business, in a proprietary manner.

Sublessor shall be responsible for paying the Agent and or any outside broker no more than six percent (6%) of the total base rent and operating expenses for the entire sublease period. If no outside broker is involved in this sublease transaction, then Sublessor shall pay Agent 4% of the total base rent and operating expenses for the entire sublease period.

This agreement may be cancelled by either party with 30 days prior written notice.

Please indicate your concurrence by signing one (1) copy and returning it to the undersigned.

West Travis County Public Utility Agency

\_\_\_\_\_  
By: Robert Pugh  
Its: \_\_\_\_\_

AGREED AND ACCEPTED THIS THE \_\_\_\_ DAY OF MAY 2018.

Peloton Commercial Real Estate

\_\_\_\_\_  
By: Kevin Granger  
Its: Partner

## ITEM H

**WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**  
**HAYS REUNION RANCH LP-REIMBURSEMENTS DUE AS OF MAY 31, 2018**  
**FOR THE PERIOD APRIL 1, 2017 THROUGH MARCH 31, 2018**

	<b>Total Reimbursable LUEs</b>	<b>Total Reimbursable Amount</b>	<b>Connections @ 03/31/17</b>	<b>Additional Connections through 03/31/18</b>	<b>Total Connections</b>	<b>Percent of Total LUEs</b>	<b>Reimbursement Earned to Date</b>	<b>Previous Payments</b>	<b>Reimbursement Due 05/31/2018</b>	<b>REIMBURSEMENT REMAINING</b>
Hays Reunion Ranch - Phase IV Pipeline		\$ 950,000								
Hays Reunion Ranch - Phase IV Pipeline Interest		\$ 73,378								
Phase IV Pipeline Total	480	\$ 1,023,378	234	51	285	59.38%	\$ 607,631	\$ 498,897	\$ 108,734	\$ 415,747

## **V. STAFF REPORTS**

## ITEM A

General Manager's Report  
May 17, 2018

1. Customer Town Hall Meeting with Monty Parker, Don Walden, and Bill Goodwin at Bee Cave City Hall, April 18, 2018. Invitation sent to all PUA customers. 22 customers attended.
2. Meetings with Murfee Engineering to review RWI No. 1 off-line scheduling to facilitate intake screen and wet well baffle wall installation, April 17 and April 20, 2018. Will take pump station off line April 30-May 9 and rely on RWI No. 2, additional temporary submersible pump, and Interconnects with MUD 12, TC MUD 20 and WCID 17, and DSWSC switching to wells.
3. Meeting with Sterling Capital on April, 18, 2018 to review investment performance.
4. Meeting with Murfee Engineering on April 18, 2018 to review Impact Fee Land Use Assumptions.
5. Meeting with Stantec Engineering on April 20, 2018 to review Terrace and Backyard SERs.
6. Meeting with staff to set up Pre-Treatment Customer sampling results database, April 20, 2018.
7. Lunch with Rick Coneway, interim DSWSC GM, April 20, 2018.
8. Meeting with Murfee Engineering to discuss additional hours/dollars request for RWI pump station project, April 20, 2018.
9. Internal staff meeting to review general administrative procedures and preliminary planning for new office move, April 23, 2018.
10. Submitted annual Barton Creek Zone Operating Permit renewals for County Line Pump Station, Morning Hill Drive Stand Tank, and Hill Country Water Supply Receiving Tank water quality facilities, April 23, 2018.
11. Meeting with Bonner Carrington to discuss Anthem at Ledgestone SER, April 23, 2018.
12. Attended TAWWA conference in San Antonio, April 24, 2018.
13. Reviewed and responded to four Lake Pointe odor complaints, April 24-25, 2018. Field investigations showed odor monitoring equipment readings were non-detect.
14. Mailed letters to wholesale customers requesting confirmation of Impact Fee Study LUE projections for calendar year 2027, April 26, 2018.
15. Executed raw water line easement with MUD 5, April 26, 2018.
16. Meeting with Noah Shaffer, Dennis Lozano, and Stefanie Albright to review various water quality inquiries for Longhorn Skyway and Bush Ranch (Ledgestone) projects, April 27, 2018.



17. Meeting with Jennifer Smith, Jerry Kyle and Stefanie Albright on May 1, 2018 to discuss transition of Jerry and Bond Finance Group from Andrews Kurth to Orrick, Herrington and Sutcliffe.
18. Attended weekly Operations Meeting, May 1, 2018.
19. Attended monthly progress meeting with CP and Y, May 1, 2018.
20. Lunch with Ray Whisenant and Rick Coneway, William Jackson, and Rex Miller of DSWSC, May 2, 2018.
21. Lakepointe WWTP and Pump Station/Tank Painting rehabilitation projects monthly progress meetings, May 3, 2018.
22. Monthly Customer Service Meeting, May 4, 2018.
23. Completed review of draft Office Lease for Galleria Oaks Building B, May 4, 2018.
24. Meeting with MEC, CCNG and LJA Engineering to review easements for East Village Project, May 4, 2018.
25. Meeting with Architect to discuss finishing details of Galleria Oaks Building B Office, May 7, 2018.
26. Meeting with Ray Whisenant, Stefanie Albright, Dennis Lozano, staff and Developers to discuss Dripping Springs Hill Tract, May 7, 2018.
27. Bid documents for Lake Pointe Manhole Rehabilitation project approved May 8, 2018. Construction to start July 1, 2018.
28. Meeting with Don Walden, Stefanie Albright, and Dennis Lozano to discuss City and County MOU Plat Notes letters and Springhollow MUD Lease Agreement for Parten Ranch, May 9, 2018.
29. Employee benefits open enrollment, May 15 – June 15, 2018.
30. Continuing to work on responses to inquiries regarding application and enforcement of Deer Creek Ranch Water Co., LLC water quality provisions.
31. Continuing to work on Headwaters Conveyance Lease Agreement for new master meter and infrastructure.
32. Continuing to work on Greenhawe WCID No. 2 Conveyance Lease Agreement for Rimrock and Rutherford West.
33. Continued to work on bid documents for manual meter replacement program.

## **ITEM B**

Budget to Actual Schedule General Operating Fund For the 6 Months Ended March 31, 2018				
	YTD Actual	Annual Budget	% of Annual Budget	Comments
<b>Revenues:</b>				
Water	\$ 9,142,627	\$ 20,511,000	44.6%	Billing period is Sep-Feb (lower usage months)
Wastewater	2,654,932	5,288,000	50.2%	Billing period is Sep-Feb (lower usage months)
Interest Income & Other	23,224	54,000	43.0%	
Total Revenues	\$ 11,820,783	\$ 25,853,000	45.7%	
<b>Expenditures:</b>				
Water	\$ 1,890,635	\$ 4,509,000	41.9%	
Wastewater	894,009	1,429,000	62.6%	effluent pond lease paid in full
Billing System & Support	43,993	125,000	35.2%	
Insurance	146,749	160,000	91.7%	full year paid up front
Occupancy	90,941	174,000	52.3%	
Salaries and Benefits	1,396,815	3,160,000	44.2%	
Professional Services				
General Counsel	74,611	165,000	45.2%	
Litigation	32,002	250,000	12.8%	
Engineering	138,639	200,000	69.3%	general, mapping & emerg int work
Rate Consultant	1,549	50,000	3.1%	
Public Relations	469	10,000	4.7%	
IT Support Services	23,415	48,000	48.8%	
Auditor	52,000	52,000	100.0%	audit completed
Other	10,779	-		reimbursement audit
Vehicle Expense	58,613	76,700	76.4%	includes hitches, new truck parts, bobcat repairs
Office Equipment & Supplies	16,534	35,000	47.2%	
Software Licenses	16,996	45,000	37.8%	
Training	10,992	20,000	55.0%	includes company supervisor training
Other Expenses	57,511	139,100	41.3%	
Capital Outlay	122,188	500,000	24.4%	Roof, generator, 2 trucks, pump
Bad Debt Expense	-	100,000	0.0%	
Total Expenditures	\$ 5,079,440	\$ 11,247,800	45.2%	
<b>Excess (Deficit)</b>	<b>\$ 6,741,343</b>	<b>\$ 14,605,200</b>		
<b>Transfers Out:</b>				
Debt Service Fund	\$ 5,060,000	\$ 10,120,000	50.0%	
Facilities Fund	1,265,000	2,530,000	50.0%	
Total Transfers Out	\$ 6,325,000	\$ 12,650,000	50.0%	
Net Increase (Decrease)	\$ 416,343	\$ 1,955,200		
Fund Balance-Beginning	10,126,262	10,126,263		
Fund Balance-Ending	<u>\$ 10,542,605</u>	<u>\$ 12,081,463</u>		

**Balance Sheets**  
**All Funds-Modified Accrual Basis**  
**As of March 31, 2018**

	General Operating Fund	Debt Service Fund	Facilities Fund	Rate Stabilization Fund	Impact Fee Fund	Capital Projects Fund	Total
<b>Assets:</b>							
Cash equivalents and CDs	\$ 7,448,793	\$ 21,714,371	\$ 7,103,509	\$ 2,972,902	\$ 32,503,328	\$ 24,096,493	\$ 95,839,396
Accounts receivable, net	3,326,541	-	-	-	-	-	3,326,541
Due from other funds	1,557,309	-	10,000	-	666,405	-	2,233,714
Other assets	22,194	3,532	-	-	-	35,278	61,004
Total Assets	12,354,837	21,717,903	7,113,509	2,972,902	33,169,733	24,131,771	101,460,655
<b>Liabilities:</b>							
Accounts payable	380,855	-	-	-	-	-	380,855
Accrued expenses	199,297	-	-	-	-	-	199,297
Due to other funds	676,405	-	380,996	-	22,731	1,153,582	2,233,714
Deposits	555,675	-	-	-	670,576	-	1,226,251
Total Liabilities	1,812,232	-	380,996	-	693,307	1,153,582	4,040,117
Fund Balances-Beginning	10,126,262	17,030,878	5,812,776	2,972,864	27,633,004	24,650,171	88,225,955
Excess (Deficit)-YTD	416,343	4,687,025	919,737	38	4,843,422	(1,671,982)	9,194,583
<b>Fund Balances-Ending</b>	<b>\$ 10,542,605</b>	<b>\$ 21,717,903</b>	<b>\$ 6,732,513</b>	<b>\$ 2,972,902</b>	<b>\$ 32,476,426</b>	<b>\$ 22,978,189</b>	<b>\$ 97,420,538</b>

General Fund Liquidity Ratio

Current Assets/Current Liabilities = 6.82

## **ITEM C**

**ENGINEERING PROJECT STATUS UPDATE**  
**BOARD MEETING – MAY 17, 2018**  
**Page 1 of 4**

**SER UPDATE(S):**

**NEW SER'S:**

- Bannockburn Baptist Church (3 LUE's) – 264 American Way
- Kwik Chek (14 LUE's) – Lot 36, Block A – 15701 W SH 71
- Locktite Storage (2 LUE's) – 2894 E Hwy 290
- Mantra Medical (11 LUE's) – 12316 FM Road 1826
  - May Board approval
- QuikTrip #433 (7 LUE's) – 290/Sawyer Ranch Road
- Ricardo Martinez (1 LUE) – 6818 Caudill Lane
- Salim Solem (1 LUE) – 9000 Atwater Cove
- Jeff and Angela Perry (1 LUE) – 12910 Shoshini Trail
- Spillman Ridge (88 LUE's) – W SH 71
  - Modeling underway

**CONSTRUCTION PLAN REVIEW:**

- Anthem at Ledge Stone (67 LUE's)
  - Review complete, comments provided 2/6/18
  - Resubmittal received, comments addressed
  - Pending NSSA edits by Developer
- Crystal Creek Office (Office Warehouse) (5 LUE's) – 415 Crystal Creek
  - Plan Submittal pending
- Bauerle Office Center (3 LUE's)
  - Construction plan review comments provided
  - Resubmittal pending
- Bee Cave Parkway (The Terrace):
  - Plan Resubmittal received, review complete, comments addressed
  - On-going coordination between Design Engineer and City of Bee Cave
- Beerburg Brewery (11 LUE):
  - Construction Plan Review in Progress
- Bloom – Building F Project (The Terrace):
  - Plan Resubmittal received, comments addressed
  - On-going coordination between Design Engineer and City of Bee Cave
- Darden Hill Storage (1 LUE):
  - Review complete, comments provided 1/31/18
  - Resubmittal pending
  - NSSA Pending

## ENGINEERING PROJECT STATUS UPDATE

### BOARD MEETING – MAY 17, 2018

#### Page 2 of 4

#### **SER UPDATE(S) (con't):**

- Ethan's View (The Terrace):
  - Plan Resubmittal received, comments addressed
  - On-going coordination between Design Engineer and City of Bee Cave
- Highpointe Phase I, Section 3A (73 – LUE's)
  - Construction Plan Review Complete, comments provided 1/12/18
  - Resubmittal received, review pending
- Lake Travis Fire Rescue (4 LUE's):
  - Construction Plan Review in Cue
- LedgeStone Phase II (28 LUE's)
  - Construction Plan review in progress
- Morgan Tract (83 LUE's)
  - Board Approval, March
  - Construction Plan submittal pending
- Rutherford West Section 5
  - Construction Plan Review Complete

#### **CLOSE-OUTS:**

- East Village , in progress
- Gateway to Falcon Head, in progress
- Parten Ranch Phase I (Subdivision/Off-Site Improvements), in progress
- Sunset Canyon Baptist Church, in progress

#### **CIP:**

#### **CP&Y:**

- Lake Pointe Plant Improvements
  - PrimeSpec
  - Construction In-Progress, Construction Progress Meetings on-going
  - Substantial Completion, May 2018 (includes additional days – CO's 1, 2 & 3)
  - Change Order 1 - \$15K – Guide Rails EQ Basins; additional days – 15
  - Change Order 2 - \$6.5K – Sole Plates; additional days – 14
  - Change Order 3 - \$8.4K – Stilling Well; additional days – 22
  - Start-up scheduled for early June
- Tank and Pump Station Coating Improvements
  - CFG Industries
  - Construction In-Progress, Construction Progress Meetings on-going
  - Substantial Completion, 9/12/18
  - Change Order 1 – (\$35,900.00) – Add - \$8.1K; Deduct - \$44K – SW Site
  - Change Order 2 - \$93.6K – Additional Tank Repairs; additional days - 12

**ENGINEERING PROJECT STATUS UPDATE**  
**BOARD MEETING – MAY 17, 2018**  
**Page 3 of 4**

**CIP: (con't)**

**CP&Y:**

- Uplands WTP Trident Office Building & Improvements
  - 60% Design Submittal received 03/23/18
  - 60% Design Review meeting held during April 2018
- MH Rehab:
  - Final design complete
  - Targeting bid advertisement May 17 & May 24
  - Anticipate Bid Opening, June 5
- Effluent Line (Park at Bee Cave)
  - Proposal Board Approval, December
  - Pending design work pending evaluation of the overall effluent system hydraulics
- Meter Replacement Program
  - Proposal for preparation of RFQ documents and Bid Phase Services pending Board Approval

**Murfee:**

- Raw Water Intake Expansion and Rehabilitation
  - Payton Construction, Inc. - \$1.13M
  - Construction in Progress
  - Preparation for extended pump station shutdown for the installation of intake screen along with pump station wet well
- 1340 Elevated Storage Tank:
  - Landmark Structures - \$1.66M
  - Project submittal underway,
  - Contractor anticipating mobilization to site during June/July
- 1340 Transmission Main
  - Bid Opening held on 1/23/18
  - Board Approval, February Board
  - Notice to proceed has been issued
  - Pre-Construction Meeting held 1/24/18
- Bee Cave 1080 Transmission Main
  - PER received, comments provided, responses received
  - Board Approval, December Board
  - ROE's, easement identification and acquisitions underway



**ENGINEERING PROJECT STATUS UPDATE**  
**BOARD MEETING – MAY 17, 2018**  
**Page 4 of 4**

**CIP: (con't)**

**Murfee:**

- Beneficial Water Recycling Project
  - Design on-going
  - Anticipate full source water characterization complete beginning of Q2
- Bohl's WWTP Expansion:
  - Project Design on-going
  - Site plan received 03/09/18, no comments
- Home Depot Pump Station Conversion and Rehabilitation (1280 Pressure Plane Improvements)
  - Operational strategy has been formulated and discussed with electrical engineer
  - Pump alternatives selection underway
- Second Raw Water Line No. 2:
  - Design documents pending
  - Submittal to Washington, DC for administrative processing
  - Targeting Construction Phase after Golden-Cheeked Warbler Nesting Season
- Southwest Parkway Ground Storage Tank
  - Design underway for GST
- Southwest Parkway Pump Station Expansion:
  - On-going coordination with LCRA and Nature Conservancy to provide City of Austin documentation regarding the site plan application
- Wastewater Permit Major Amendment:
  - Application administratively complete, technical review underway
- West Bee Cave Pump Station Ground Storage Tank No. 2
  - Site Development Permit drawings have been submitted to City of Bee Cave for approval
  - Design underway for GST
- Other:
  - 2018 Impact Fee Study Update, April 2018



Partners for a Better Quality of Life

May 7, 2018

Mr. Robert Pugh, General Manager  
West Travis County Public Utility Agency  
12117 Bee Cave Road  
Building 3, Suite 120  
Austin, TX 78738

Re: WTCPUA Project Status Summary – May 2018 – Project Nos. 23008 & 1800076

Dear Rob:

Please find the following status report for the active projects that I am project manager for and on which CP&Y (The Wallace Group) is currently working with West Travis County PUA.

1. Lake Pointe WWTP Improvements – The general contractor, Prime Spec Constructors, completed installation of the new pump bases (2) and guiderail systems (2) in Plant #2 EQ on December 2, 2017. They have also completed the new concrete pump bases and sole plates on all four vertical turbine effluent pumps. The chlorine contact basin new baffle walls and work is complete (week of February 5) and operational. The foundation for the new mechanical screen support was poured on March 2. The new mechanical bar screen and conveyor system has been delivered to the project site. The Contractor installed the structural steel screen support during the week of May 1, will begin work on installing the new mechanical screen and conveyor the week of May 7. The project is projected to be completed and start up scheduled for June 5, 2018.
2. Tank & Pump Station Recoating Project (eight locations) – This project began construction on December 4, 2017. The Contractor, CFG Industries, completed work on the Dripping Springs elevated storage tank (EST) the week of January 29, 2017. They are currently working on six of the tank/pump station sites: County Line, Bee Cave, Hamilton Pool, Home Depot, Seven Oaks and Southwest. The recoating work on the pump stations/piping is complete, with only the tank coatings portion and repair of buildings/supports work remaining. The project has a substantial completion date of September 12, 2018. Provided there are no significant future delays due to inclement weather that prevents tank blasting and painting operations, the Contractor currently anticipates finishing construction by August 2018.
3. Uplands WTP & High Service Pump Station Renovations – This project began in December 2017 with the design team conducting site visits and beginning preliminary design efforts. The Engineer has submitted 60% project design documents and we completed that review meeting with PUA staff on April 23. Staff is currently compiling individual staff 60% review comments and will issue those to CPY soon in order to allow us to proceed with the 90% design documents.

Thank you and should you have any questions please call me at 512-492-6855 or at [swetzel@cpyi.com](mailto:swetzel@cpyi.com) written communications.

Sincerely,

200 West Highway 6, Suite 620  
Waco, Texas 76712  
TBPE # F-1741  
TBPLS # 10194124

(p) 254.772.9272 · (f) 254.776.2924  
[www.cpyi.com](http://www.cpyi.com)





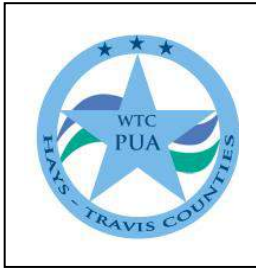
Scott C. Wetzel, PE

Vice President

CP&Y, Inc.

Cc: File 23008 & WTCP1800076

## ITEM D



## WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
Fax: 512/263-2289  
wtcpua.org

# Operations Report

May 10, 2018

### Executive Summary

Working closely with PUA Engineering staff to successfully complete the following capital projects on time and within budget:

1. Raw Water Intake Pump Station Improvements
2. Lake Pointe WWTP Improvements
3. Water Treatment Plant Improvements
4. Tank Pump Station Coating Improvements
5. 1340 EST Project
6. 1340 Transmission Water Main Project
7. Manhole Rehabilitation in Lake Pointe

### Critical Issues

The effluent ponds are no longer within mandatory take levels. The PUA will resume billing for TLAP and 210 customers beginning April 15, 2018. Effluent reports will continue to be sent out to water users to help them manage their irrigation practices.

### Environmental Compliance

All TCEQ compliance parameters were within State limits during the month of April 2018. Please see the below process control summaries for the Water Treatment Plant and both Wastewater Treatment Plants.

### Process Overview of Month:

Water Treatment Plant	Actual
AVG Raw Water	7.533 MGD
AVG Treated Water	7.674 MGD
PEAK Treated Water	9.832 MGD
AVG CFE Turbidity	0.12 NTU
AVG Chlorine	2.80 mg/l

Lake Point WWTP	Actual	Permit Limit
AVG Flow	0.365 MGD	0.675 MGD
MAX Flow	0.470 MGD	
AVG BOD	2.13 mg/l	5 mg/l
AVG Fec.Coli	1.13 mg/l	20 mg/l
AVG NH3	0.21 mg/l	2 mg/l
AVG Turbidity	1.09 mg/l	3 mg/l

Bohls WWTP	Actual	Permit Limit
AVG Flow	0.256 MGD	0.325 MGD
MAX Flow	0.291 MGD	
AVG BOD	3.13 mg/l	5 mg/l
AVG Fec.Coli	1.13 mg/l	20 mg/l
AVG NH3	0.08 mg/l	2 mg/l
AVG Turbidity	1.56 mg/l	3 mg/l

### Other Performance Measures

During the month of April approximately 632,000 gallons of water was flushed from different areas of the system. The flushing program moves water through the system and helps improve water quality.

### Public Relations

Several odor complaints were received from the Lake Pointe subdivision area between late April thru early May. Odor loggers from different areas of the system measured zero detectable limits during this time. We discovered the water pond on Carlsbad Dr. was the source of odors. We explained to customers the breakdown of organic compounds in the water, oxygen poor environment, and increased temperatures can release foul odors caused by the anaerobic action.

### Safety Performance

There were zero reportable injuries for the month of April 2018.

Safety topic(s) this month:

- Dump Truck Safety (Part 2)
- Painting Safety

### Personnel

The position for Pump and Motor Operator remains vacant. The advertisement was posted April 10<sup>th</sup>. We expect to backfill the position soon.

### Miscellaneous

- Revised CT Study was approved from TCEQ. This revision will improve operational flexibility with the addition of several treatment trains. It will help the WTP disinfection process and ensure compliance with State requirements.
- Annual Barton Spring Zone Operating Permit was submitted April 23, 2018. Due date May 24, 2018.

## **West Travis County Public Utility Agency Billing Summary Report**



*\*This report contains estimates of monthly billing data based upon information at the time of report preparation. This report is not based upon audited information. Additionally, monthly billing adjustments may not be reflected on this report. This is prepared for trending purposes only. For final billed revenues net of adjustments, please see the monthly bookkeepers report.*



**Summary of Retail Billed Revenues  
Water Utility**

Bee Cave District	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
	2/9-3/9	3/10-4/7	4/8-5/9	5/10-6/8	6/9-7/10	7/11-8/8	8/9-9/8	9/9-10/9	10/10-11/9	11/10-12/8	12/9-1/10	1/11-2/9	2/10-3/9	
Commercial Water	\$ 21,223	\$ 26,176	\$ 23,768	\$ 25,066	\$ -	\$ 32,160	\$ 32,463	\$ 41,543	\$ 35,189	\$ 23,529	\$ 22,947	\$ 24,449	\$ 22,517	\$ 331,030
Commercial Base Water	22,059	22,071	22,071	22,225	-	23,369	23,420	23,536	23,844	24,004	24,254	24,408	24,431	\$ 279,691
Fire Hydrant Water	8,870	4,787	13,093	8,460	-	7,805	22,384	22,296	20,222	11,841	8,377	9,900	10,508	\$ 148,543
Multi Use Water	52,519	51,252	48,805	50,937	-	49,764	54,361	48,143	52,308	47,418	49,020	50,142	45,968	\$ 600,638
Residential Base Water	118,359	118,567	118,891	118,979	-	119,439	119,843	119,951	120,107	121,119	122,407	123,023	123,270	\$ 1,443,953
Residential Water	135,963	168,779	271,360	306,364	-	484,033	443,527	353,714	288,006	213,128	141,241	128,794	102,210	\$ 3,037,118
Irrigation Water	31,908	50,628	61,039	74,031	-	96,201	105,463	103,193	66,024	54,196	26,908	23,130	23,122	\$ 715,844
<b>TOTALS</b>	<b>\$ 390,902</b>	<b>\$ 442,259</b>	<b>\$ 559,027</b>	<b>\$ 606,062</b>	<b>\$ -</b>	<b>\$ 812,771</b>	<b>\$ 801,460</b>	<b>\$ 712,377</b>	<b>\$ 605,700</b>	<b>\$ 495,236</b>	<b>\$ 395,154</b>	<b>\$ 383,846</b>	<b>\$ 352,026</b>	<b>\$ 6,556,818</b>

Bee Cave South	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
	3/1-3/29	3/30-4/28	4/29-5/30	5/31-6/29	6/30-7/31	8/1-8/30	8/31-9/29	9/30-10/30	10/31-11/30	12/1-12/29	12/30-1/31	2/1-3/1	3/2-3/29	
Commercial Water	\$ 22,795	\$ 25,138	\$ 26,373	\$ 32,232	\$ 31,963	\$ 28,654	\$ 25,715	\$ 25,710	\$ 26,367	\$ 23,262	\$ 29,974	\$ 23,419	\$ 22,285	\$ 343,887
Commercial Base Water	7,026	7,026	6,972	6,972	6,972	7,026	7,026	7,026	7,035	7,026	7,031	7,026	7,109	\$ 91,277
Fire Hydrant Water	1,365	932	1,254	2,215	2,200	593	784	735	574	431	688	2,411	5,601	\$ 19,785
Residential Base Water	74,948	74,968	75,013	75,266	75,498	75,519	75,498	75,507	75,592	75,646	75,768	75,764	75,865	\$ 980,853
Residential Water	67,904	88,508	118,857	163,190	230,883	198,023	131,733	97,370	94,940	63,363	79,713	55,708	69,080	\$ 1,459,272
<b>TOTALS</b>	<b>\$ 174,038</b>	<b>\$ 196,573</b>	<b>\$ 228,469</b>	<b>\$ 279,875</b>	<b>\$ 347,517</b>	<b>\$ 309,816</b>	<b>\$ 240,756</b>	<b>\$ 206,349</b>	<b>\$ 204,509</b>	<b>\$ 169,729</b>	<b>\$ 193,174</b>	<b>\$ 164,328</b>	<b>\$ 179,941</b>	<b>\$ 2,895,074</b>

Homestead / Meadow Fox	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
	2/18-3/20	3/21-4/19	4/20-5-18	5/19-6/19	6/20-7/19	7/20-8/17	8/18-9/18	9/19-10/18	10/19-11/17	11/18-12/18	12/19-1/17	1/18-2/16	2/17-3/19	
Residential Base Water	\$ 6,916	\$ 6,915	\$ 6,913	\$ 6,923	\$ 6,911	\$ 6,915	\$ 6,918	\$ 6,969	\$ 6,957	\$ 6,957	\$ 6,957	\$ 6,957	\$ 6,932	\$ 90,139
Residential Water	5,933	10,417	10,379	9,614	10,852	12,656	10,331	9,553	8,103	7,661	5,778	5,203	7,054	\$ 113,533
<b>TOTALS</b>	<b>\$ 12,849</b>	<b>\$ 17,331</b>	<b>\$ 17,292</b>	<b>\$ 16,537</b>	<b>\$ 17,763</b>	<b>\$ 19,570</b>	<b>\$ 17,250</b>	<b>\$ 16,522</b>	<b>\$ 15,060</b>	<b>\$ 14,618</b>	<b>\$ 12,735</b>	<b>\$ 12,160</b>	<b>\$ 13,985</b>	<b>\$ 203,672</b>

290 / HPR	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
	2/22-3/22	3/23-4/21	4/22-5/22	5/23-6/21	6/22-7/21	7/22-8/21	8/22-9/20	9/21-10/20	10/21-11/21	11/22-12/20	12/21-1/19	1/20-2/20	2/21-3/21	
Commercial Water	\$ 4,470	\$ 4,505	\$ 4,402	\$ 5,283	\$ 4,030	\$ 5,449	\$ 8,123	\$ 5,685	\$ 8,738	\$ 3,602	\$ 3,109	\$ 3,537	\$ 3,670	\$ 64,604
Commercial Base Water	2,349	2,295	2,295	2,295	2,295	2,295	2,277	2,295	2,550	2,509	2,509	2,509	2,509	\$ 30,980
Fire Hydrant Water	2,459	4,844	13,084	11,901	49,445	39,348	9,526	7,773	7,336	5,431	3,052	3,550	7,701	\$ 165,451
Residential Base Water	111,080	112,022.26	112,597	113,150	113,970	114,465	115,214	115,667	116,382	117,206	117,622	118,121	118,991	\$ 1,384,464
Residential Water	119,606	168,533	263,441	265,167	400,311	454,912	300,979	215,523	194,262	139,479	91,126	94,224	111,789	\$ 2,819,351
Irrigation Water	8,694	6,065	13,488	42,958	41,197	60,731	38,682	21,991	32,011	12,918	2,357	2,354	6,588	\$ 290,033
<b>TOTALS</b>	<b>\$ 248,658</b>	<b>\$ 186,242</b>	<b>\$ 409,306</b>	<b>\$ 440,753</b>	<b>\$ 611,247</b>	<b>\$ 677,199</b>	<b>\$ 474,801</b>	<b>\$ 368,934</b>	<b>\$ 361,280</b>	<b>\$ 281,143</b>	<b>\$ 219,774</b>	<b>\$ 224,295</b>	<b>\$ 251,249</b>	<b>\$ 4,754,883</b>

GRAND TOTALS	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Commercial Water	\$ 48,488	\$ 55,818	\$ 54,543	\$ 62,581	\$ 35,993	\$ 66,264	\$ 66,301	\$ 72,939	\$ 70,295	\$ 50,393	\$ 56,031	\$ 51,405	\$ 48,473	\$ 739,522
Commercial Base Water	\$ 31,434	\$ 31,392	\$ 31,338	\$ 31,493	\$ 9,267	\$ 32,690	\$ 32,723	\$ 32,858	\$ 33,429	\$ 33,539	\$ 33,793	\$ 33,943	\$ 34,048	\$ 401,948
Fire Hydrant Water	\$ 12,694	\$ 10,564	\$ 27,431	\$ 22,576	\$ 51,646	\$ 47,747	\$ 32,694	\$ 30,804	\$ 28,132	\$ 17,702	\$ 12,117	\$ 15,861	\$ 23,811	\$ 333,779
Multi Use Water	\$ 52,519	\$ 51,252	\$ 48,805	\$ 50,937	\$ -	\$ 49,764	\$ 54,361	\$ 48,143	\$ 52,308	\$ 47,418	\$ 49,020	\$ 50,142	\$ 45,968	\$ 600,638
Residential Base Water	\$ 311,304	\$ 200,450	\$ 313,413	\$ 314,318	\$ 196,379	\$ 316,338	\$ 317,472	\$ 318,094	\$ 319,038	\$ 320,927	\$ 322,754	\$ 323,865	\$ 325,057	\$ 3,899,410
Residential Water	329,405	436,236	403,704	744,335	642,046	1,149,623	886,571	676,161	585,311	423,632	317,858	283,929	290,133	\$ 7,168,943
Irrigation Water	\$ 40,602	\$ 56,693	\$ 74,527	\$ 116,988	\$ 41,197	\$ 156,932	\$ 144,145	\$ 125,184	\$ 98,035	\$ 67,114	\$ 29,265	\$ 25,484	\$ 29,710	\$ 1,005,877
<b>TOTALS</b>	<b>\$ 826,447</b>	<b>\$ 842,405</b>	<b>\$ 953,762</b>	<b>\$ 1,343,227</b>	<b>\$ 976,527</b>	<b>\$ 1,819,357</b>	<b>\$ 1,534,267</b>	<b>\$ 1,304,183</b>	<b>\$ 1,186,548</b>	<b>\$ 960,725</b>	<b>\$ 820,838</b>	<b>\$ 784,630</b>	<b>\$ 797,200</b>	<b>\$ 14,150,117</b>

**FYE 2016 Budgeted Revenues**

<b>Retail Water</b>
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**Summary of Retail Billed Revenues  
Wastewater Utility**

Bee Cave District	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Commercial Sewer	\$ 47,045	\$ 58,628	\$ 55,186	\$ 56,944	\$ -	\$ 58,290	\$ 60,568	\$ 64,797	\$ 64,362	\$ 65,815	\$ 51,670	\$ 52,217	\$ 58,377	\$ 693,899
Multi Use Sewer	\$ 64,756	\$ 62,614	\$ 61,776	\$ 64,003	\$ -	\$ 62,835	\$ 67,697	\$ 61,198	\$ 65,537	\$ 61,096	\$ 62,409	\$ 63,732	\$ 59,408	\$ 757,060
Grinder Surcharge	\$ 1,000	\$ 1,000	\$ 998	\$ 974	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 998	\$ 12,970
Residential Sewer	\$ 185,573	\$ 273,737	\$ 205,609	\$ 204,646	\$ -	\$ 209,080	\$ 209,016	\$ 206,721	\$ 205,249	\$ 199,723	\$ 193,359	\$ 190,646	\$ 182,804	\$ 2,466,162
<b>TOTALS</b>	<b>\$ 298,375</b>	<b>\$ 395,979</b>	<b>\$ 323,570</b>	<b>\$ 326,567</b>	<b>\$ 1,000</b>	<b>\$ 331,205</b>	<b>\$ 338,280</b>	<b>\$ 333,715</b>	<b>\$ 336,148</b>	<b>\$ 327,634</b>	<b>\$ 308,437</b>	<b>\$ 307,595</b>	<b>\$ 301,587</b>	<b>\$ 3,930,092</b>

**FYE 2016 Budgeted Revenues**

<b>Retail Wastewater</b>	<b>\$ 2,791,104</b>
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**Summary of Retail Billed Revenues**  
**Other Fees (466-Reg, Pen & Capital)**  
**(477-Reg, Pen & Drainage)**

	March	April	May	June	July	August	September	October	November	December	January	February	March
Bee Cave	14,062	11,353	10,504	15,537	-	17,729	17,194	14,839	19,895	19,895	9,657	10,300	10,402
Bee Cave South	2,015	2,001	1,297	2,162	2,959	4,042	2,965	1,167	1,272	1,865	1,080	1,329	2,041
Homestead / Meadow Fox	4,373	4,212	4,295	4,476	4,443	4,515	4,476	4,541	4,444	4,490	4,425	4,339	4,508
290 / HPR	6,149	4,970	4,406	6,193	6,472	10,966	12,627	6,323	5,123	6,260	3,685	2,944	3,313
<b>TOTALS</b>	<b>\$ 26,599</b>	<b>\$ 22,537</b>	<b>\$ 20,503</b>	<b>\$ 28,368</b>	<b>\$ 13,874</b>	<b>\$ 37,251</b>	<b>\$ 37,262</b>	<b>\$ 26,869</b>	<b>\$ 30,734</b>	<b>\$ 32,510</b>	<b>\$ 18,847</b>	<b>\$ 18,913</b>	<b>\$ 20,264</b>

**FYE 2016 Budgeted Revenues**

<b>Other Fees</b>	<b>\$ 646,084</b>
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## Summary of Retail Billed Revenues NON PUA Revenue

Hays MUD 4	February	March	April	May	June	July	August	September	October	November	December	January	February	March
Sewer	7,709	7,692	8,093	8,193	8,552	8,615	8,583	8,421	8,279	8,065	7,458	7,542	7,321	7,810
<b>TOTALS</b>	<b>\$ 7,709</b>	<b>\$ 7,692</b>	<b>\$ 8,093</b>	<b>\$ 8,193</b>	<b>\$ 8,552</b>	<b>\$ 8,615</b>	<b>\$ 8,583</b>	<b>\$ 8,421</b>	<b>\$ 8,279</b>	<b>\$ 8,065</b>	<b>\$ 7,458</b>	<b>\$ 7,542</b>	<b>\$ 7,321</b>	<b>\$ 7,810</b>

TC MUD 16	February	March	April	May	June	July	August	September	October	November	December	January	February	March
Sewer	21,170	22,801	24,106	24,723	24,740	26,098	26,483	26,435	26,143	26,200	23,434	23,564	23,708	25,055
<b>TOTALS</b>	<b>\$ 21,170</b>	<b>\$ 22,801</b>	<b>\$ 24,106</b>	<b>\$ 24,723</b>	<b>\$ 24,740</b>	<b>\$ 26,098</b>	<b>\$ 26,483</b>	<b>\$ 26,435</b>	<b>\$ 26,143</b>	<b>\$ 26,200</b>	<b>\$ 23,434</b>	<b>\$ 23,564</b>	<b>\$ 23,708</b>	<b>\$ 25,055</b>



## Summary of Wholesale, Raw Water and Effluent Billed Revenues

### Wholesale Water

Revenue	March	April	May	June	July	August	September	October	November	December	January	February	March
	3/15-4/15	4/16-5/15	5/16-6/15	6/16-7/15	7/16-8/15	8/16-9/15	9/16-10/15	10/16-11/15	11/16-12/15	12/16-1/15	1/16-2/15	2/16-3/15	3/16-4/15
Barton Creek West	\$ 25,572	\$ 32,282	\$ 31,685	\$ 37,409	\$ 45,461	\$ 37,493	\$ 32,279	\$ 30,155	\$ 24,954	\$ 22,837	\$ 19,338	\$ 18,943	\$ 27,024
Headwaters	17,234	17,600	20,490	21,504	25,553	22,241	19,361	18,082	17,306	16,085	16,101	16,272	16,947
City of Dripping Springs (Blue Blazes)											\$ 681	\$ 2,590	\$ 432
Crystal Mountain HOA	3,761	3,617	5,073	5,899	6,773	5,436	4,795	4,836	4,579	4,502	3,897	3,677	4,745
Deer Creek Ranch	15,253	16,399	16,872	18,257	20,035	17,255	16,378	15,865	14,846	13,764	13,862	12,914	15,296
Dripping Springs WSC	41,576	53,360	48,138	54,200	61,483	48,681	46,455	47,295	41,943	39,657	41,696	38,307	49,405
Eanes ISD	1,327	1,760	1,497	1,354	1,833	2,039	1,655	1,563	1,447	1,146	1,335	1,162	1,801
Graham Mortgage	-	-	-	-	-	-	-	-	-	-	-	-	-
Hays WCID 1	35,462	45,303	41,021	50,036	58,082	45,503	42,576	41,038	36,167	30,648	32,411	30,532	37,760
Hays WCID 2	32,636	37,715	39,835	44,667	52,531	41,286	37,713	36,655	31,566	26,566	27,483	26,810	34,552
Hudson	-	-	-	-	-	-	-	-	-	-	-	-	-
Lazy Nine 1A	25,476	28,410	28,903	29,987	35,361	32,072	33,620	29,844	28,844	22,306	23,081	21,995	30,219
Masonwood	9,576	10,966	12,547	12,978	15,004	14,735	13,046	12,775	11,056	9,331	9,555	6,702	20,241
Reunion Ranch	11,654	14,891	15,212	18,403	24,261	19,892	18,758	18,061	12,586	9,856	10,464	9,723	13,750
Senna Hills	15,794	18,919	18,320	20,700	24,860	20,973	18,574	16,779	14,725	13,784	13,774	12,557	15,545
Travis County MUD 12	49,208	52,234	54,396	55,278	62,835	57,548	53,965	54,823	49,671	46,111	48,305	43,770	52,476
<b>TOTALS</b>	<b>\$ 284,528</b>	<b>\$ 333,456</b>	<b>\$ 333,989</b>	<b>\$ 370,672</b>	<b>\$ 434,070</b>	<b>\$ 365,154</b>	<b>\$ 339,175</b>	<b>\$ 327,770</b>	<b>\$ 289,690</b>	<b>\$ 256,595</b>	<b>\$ 261,983</b>	<b>\$ 245,955</b>	<b>\$ 320,191</b>

### FYE 2016 Budgeted Revenues

#### Wholesale Water

### Wholesale Wastewater

Revenue	March	April	May	June	July	August	September	October	November	December	January	February	March
Masonwood Wastewater	\$ 18,994	\$ 19,690	\$ 21,775	\$ 20,629	\$ 23,441	\$ 23,181	\$ 22,279	\$ 23,563	\$ 23,234	\$ 23,074	\$ 24,824	\$ 23,976	\$ 26,344
WCID 17 Wastewater	29,764	18,659	32,137	30,227	32,044	31,803	30,925	32,427	30,740	34,127	30,357	30,314	33,156
<b>TOTALS</b>	<b>\$ 48,758</b>	<b>\$ 38,349</b>	<b>\$ 53,912</b>	<b>\$ 50,856</b>	<b>\$ 55,485</b>	<b>\$ 54,984</b>	<b>\$ 53,205</b>	<b>\$ 55,990</b>	<b>\$ 53,974</b>	<b>\$ 57,201</b>	<b>\$ 55,180</b>	<b>\$ 54,289</b>	<b>\$ 59,500</b>

### FYE 2016 Budgeted Revenues

#### Wholesale Wastewater

### Effluent/Raw Water/Raw Water Deliver

Revenue	March	April	May	June	July	August	September	October	November	December	January	February	March
Brinker Texas (Chilis) Effluent	-	-	-	-	-	-	-	-	-	-	-	-	-
CCNG Effluent / Raw	-	-	\$ 41,717	\$ 35,064	\$ 36,711	\$ 22,923	\$ 16,159	\$ 18,529	\$ 18,021	\$ 10,245	\$ -	\$ -	\$ -
Connel Falconhead Apts	-	-	\$ 4,870	\$ 4,028	\$ 5,051	\$ 3,004	\$ 4,237	\$ 2,869	\$ 1,591	\$ 629	\$ -	\$ -	\$ -
Falconhead HOA (Spillman) Effluent	-	-	\$ 5,799	\$ 7,332	\$ 8,125	\$ 9,416	\$ 3,720	\$ 3,670	\$ 3,008	\$ 629	\$ -	\$ -	\$ -
Fire Phoenix (Falconhead Golf) Effluent	-	-	\$ 17,826	\$ 29,386	\$ 42,166	\$ 10,956	\$ 10,956	\$ 19,630	\$ 9,408	\$ 9,454	\$ -	\$ -	\$ -
First Star Bank Effluent	-	-	-	\$ 25	\$ 29	\$ 16	\$ 12	\$ 25	\$ -	\$ -	\$ -	\$ -	\$ -
Lake Travis ISD Effluent / Raw	271	1,278	\$ 653	\$ 271	\$ 797	\$ 715	\$ 649	\$ 723	\$ 715	\$ 477	\$ 115	\$ 119	\$ 53
WTCMUD3 Raw Water Delivery Chrg	264	2,031	\$ -	\$ 1,375	\$ 1,516	\$ -	\$ 3	\$ -	\$ 1,399	\$ 4	\$ 16	\$ -	\$ 512
Embrey Partners	-	-	\$ 789	\$ 1,060	\$ 1,171	\$ 1,356	\$ 1,180	\$ 1,307	\$ 1,171	\$ 719	\$ -	\$ -	\$ -
Ash Creek Homes	-	-	\$ 1,739	\$ 1,233	\$ 2,261	\$ 2,445	\$ 1,854	\$ 2,088	\$ 1,911	\$ 41	\$ -	\$ -	\$ -
Lakeway Dermatology	-	-	\$ 210	\$ 267	\$ 436	\$ 518	\$ 41	\$ -	\$ 415	\$ 53	\$ -	\$ -	\$ -
<b>TOTALS</b>	<b>\$ 535</b>	<b>\$ 3,309</b>	<b>\$ 73,602</b>	<b>\$ 80,042</b>	<b>\$ 98,264</b>	<b>\$ 51,351</b>	<b>\$ 38,811</b>	<b>\$ 48,840</b>	<b>\$ 37,640</b>	<b>\$ 22,251</b>	<b>\$ 131</b>	<b>\$ 119</b>	<b>\$ 565</b>

### FYE 2016 Budgeted Revenues

#### Effluent/Raw Water

<b>TOTAL</b>	<b>\$ 333,821</b>	<b>\$ 375,114</b>	<b>\$ 461,503</b>	<b>\$ 501,570</b>	<b>\$ 587,819</b>	<b>\$ 471,489</b>	<b>\$ 431,190</b>	<b>\$ 432,600</b>	<b>\$ 381,305</b>	<b>\$ 336,046</b>	<b>\$ 317,294</b>	<b>\$ 300,363</b>	<b>\$ 380,257</b>
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### FYE 2016 Budgeted Revenues

#### TOTAL Wholesale/Effluent



### Summary of Total Billed Revenues - PUA Revenues Only

Water Utility	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Retail Water	\$ 826,447	\$ 842,405	\$ 953,762	\$ 1,343,227	\$ 976,527	\$ 1,819,357	\$ 1,534,267	\$ 1,304,183	\$ 1,186,548	\$ 960,725	\$ 820,838	\$ 784,630	\$ 797,200	\$ 14,150,117
Wholesale Water	284,528	333,456	333,989	370,672	434,070	365,154	339,175	327,770	289,690	256,595	261,983	245,955	320,191	\$ 4,163,228
<b>TOTALS</b>	<b>\$ 1,110,975</b>	<b>\$ 1,175,861</b>	<b>\$ 1,287,751</b>	<b>\$ 1,713,899</b>	<b>\$ 1,410,597</b>	<b>\$ 2,184,512</b>	<b>\$ 1,873,442</b>	<b>\$ 1,631,953</b>	<b>\$ 1,476,238</b>	<b>\$ 1,217,320</b>	<b>\$ 1,082,820</b>	<b>\$ 1,030,585</b>	<b>\$ 1,117,392</b>	<b>\$ 18,313,345</b>

Wastewater Utility	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Retail Wastewater	\$ 298,375	\$ 395,979	\$ 323,570	\$ 326,567	\$ 1,000	\$ 331,205	\$ 338,280	\$ 333,715	\$ 336,148	\$ 327,634	\$ 308,437	\$ 307,595	\$ 301,587	\$ 3,930,092
Wholesale Wastewater	48,758	38,349	53,912	50,856	55,485	54,984	53,205	55,990	53,974	57,201	55,180	54,289	59,500	\$ 691,684
<b>TOTALS</b>	<b>\$ 347,132</b>	<b>\$ 434,328</b>	<b>\$ 377,482</b>	<b>\$ 377,423</b>	<b>\$ 56,485</b>	<b>\$ 386,189</b>	<b>\$ 391,485</b>	<b>\$ 389,706</b>	<b>\$ 390,123</b>	<b>\$ 384,834</b>	<b>\$ 363,618</b>	<b>\$ 361,884</b>	<b>\$ 361,087</b>	<b>\$ 4,621,776</b>

Other	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Other Fees - Retail	\$ 26,599	\$ 22,537	\$ 20,503	\$ 28,368	\$ 13,874	\$ 37,251	\$ 37,262	\$ 26,869	\$ 30,734	\$ 32,510	\$ 18,847	\$ 18,913	\$ 20,264	\$ 334,529
Raw Water/Effluent	\$ 535	\$ 3,309	\$ 73,602	\$ 80,042	\$ 98,264	\$ 51,351	\$ 38,811	\$ 48,840	\$ 37,640	\$ 22,251	\$ 131	\$ 119	\$ 565	\$ 455,459
<b>TOTALS</b>	<b>\$ 27,134</b>	<b>\$ 25,846</b>	<b>\$ 94,105</b>	<b>\$ 108,410</b>	<b>\$ 112,137</b>	<b>\$ 88,602</b>	<b>\$ 76,073</b>	<b>\$ 75,708</b>	<b>\$ 68,374</b>	<b>\$ 54,761</b>	<b>\$ 18,978</b>	<b>\$ 19,032</b>	<b>\$ 20,829</b>	<b>\$ 789,988</b>

<b>TOTAL</b>	<b>\$ 1,485,242</b>	<b>\$ 1,636,034</b>	<b>\$ 1,759,338</b>	<b>\$ 2,199,732</b>	<b>\$ 1,579,219</b>	<b>\$ 2,659,302</b>	<b>\$ 2,341,000</b>	<b>\$ 2,097,367</b>	<b>\$ 1,934,734</b>	<b>\$ 1,656,915</b>	<b>\$ 1,465,416</b>	<b>\$ 1,411,501</b>	<b>\$ 1,499,308</b>	<b>\$ 23,725,109</b>
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### FYE 2016 Budgeted Revenues



**Summary of Total Billed Consumption (1,000 Gallons)**  
**Water Utility**

	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Bee Cave	32,448	37,813	50,370	53,765	64,715	73,405	70,294	82,622	54,805	43,644	33,513	31,618	27,475	636,487
Bee Cave South	14,484	17,524	21,234	26,643	33,270	30,055	22,869	18,466	18,368	13,762	16,288	12,681	14,824	260,468
Homestead / Meadow Fox	1,010	1,394	1,587	1,559	1,647	1,825	1,629	1,414	1,288	1,246	1,004	938	1,098	17,639
HPR / Z90	20,394	26,828	39,228	40,717	56,427	61,674	45,115	34,725	32,152	23,938	16,610	16,628	20,335	434,771
<b>Total Retail</b>	<b>68,336</b>	<b>83,559</b>	<b>112,419</b>	<b>122,684</b>	<b>156,059</b>	<b>166,959</b>	<b>139,907</b>	<b>117,227</b>	<b>106,613</b>	<b>82,590</b>	<b>67,415</b>	<b>61,865</b>	<b>63,732</b>	<b>1,349,365</b>

Wholesale Water	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Barton Creek West	6,670	9,454	9,206	11,581	14,922	11,615	9,452	8,571	9,413	5,535	4,083	3,919	7,272	111,693
City of Dripping Springs (Blue Blazes)														136
Headwaters	1,262	1,462	3,041	3,595	5,808	3,998	2,424	1,725	1,301	634	15,662	736	1,105	42,753
Crystal Mountain HOA	637	577	1,184	1,528	1,892	1,335	1,068	1,085	978	946	694	602	1,047	13,573
Deer Creek Ranch	4,355	5,054	5,342	6,187	7,271	5,576	5,041	4,728	4,107	3,447	3,507	2,929	4,381	61,925
Dripping Springs WSC	15,590	22,689	19,543	23,195	27,582	19,870	18,529	19,035	15,811	14,434	15,662	13,621	20,306	245,867
Eanes ISD	352	607	452	368	650	771	545	491	423	246	357	255	631	6,148
Graham Mortgage														
Hays WCID 1	9,589	15,344	12,840	18,112	22,817	15,461	13,749	12,850	10,001	6,774	7,805	6,706	10,933	162,981
Hays WCID 2	7,758	10,417	11,527	14,057	18,174	12,287	10,416	9,862	7,198	4,580	5,060	4,708	8,761	124,805
Hudson	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lazy Nine 1A	6,681	8,377	8,662	9,289	12,395	10,494	11,389	9,206	8,628	4,849	5,297	4,669	9,423	109,359
Masonwood	3	3	4	5	5	5	4	5	4	2	2,553	803	9,109	12,505
Reunion Ranch	3,228	4,950	5,121	6,818	9,934	7,610	7,007	6,636	3,724	2,272	2,595	2,201	4,343	66,439
Senna Hills	4,851	6,780	6,410	7,879	10,447	8,048	6,567	5,459	4,191	3,610	3,604	2,853	4,697	75,396
Travis County MUD 12	9,461	11,210	12,460	12,970	17,338	14,282	12,211	12,707	9,729	7,671	8,939	6,318	11,350	146,646
<b>Total Wholesale</b>	<b>70,437</b>	<b>96,924</b>	<b>95,792</b>	<b>115,584</b>	<b>149,235</b>	<b>111,352</b>	<b>98,402</b>	<b>92,360</b>	<b>75,508</b>	<b>55,000</b>	<b>75,954</b>	<b>50,320</b>	<b>93,358</b>	<b>1,180,226</b>

Effluent Water	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Brinker Texas, LP	-	-	-	-	-	-	-	-	-	-	-	-	-	-
CCNG Golf, LLC	2,883	11,220	10,150	16,309	17,075	10,661	7,516	8,618	8,382	4,765	10,143	5,705	4,875	115,671
Connel Falconhead Aptarm	294	621	1,185	980	1,229	731	1,031	698	387	153	324	284	822	8,768
Fire Phoenix, LLC	64,029	76,994	8,291	13,668	19,612	13,686	9,440	9,130	4,376	4,397	12,268	15,080	11,298	309,249
First State Bank	-	-	-	6	7	4	3	6	-	-	-	3	1	29
Lake Travis ISD	66	311	159	66	194	174	158	176	174	116	28	29	13	1,859
Spillman Ranch Community	797	1,328	1,411	1,784	1,977	2,291	1,730	1,707	1,395	641	253	1,479	699	18,077
Ash Creek Homes (Wildwo	55	55	423	300	550	595	451	508	465	10	223	245	305	3,935
Embrey Partners (Estates a	207	320	192	258	285	330	287	318	285	175	111	97	334	3,038
Lakeway Dermatology	9	72	51	65	106	126	10	-	101	13	15	13	29	581
<b>Total Wholesale</b>	<b>68,340</b>	<b>90,921</b>	<b>21,862</b>	<b>33,436</b>	<b>41,035</b>	<b>28,598</b>	<b>20,626</b>	<b>21,161</b>	<b>15,569</b>	<b>10,270</b>	<b>23,365</b>	<b>22,935</b>	<b>18,376</b>	<b>461,207</b>

System Summary	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Total Retail	68,336	83,559	112,419	122,684	156,059	166,959	139,907	117,227	106,613	82,590	67,415	61,865	63,732	1,349,365
Total Wholesale	70,437	96,924	95,792	115,584	149,235	111,352	98,402	92,360	75,508	55,000	75,954	50,320	93,358	1,180,226
Effluent Water	68,340	90,921	21,862	33,436	41,035	28,598	20,626	21,161	15,569	10,270	23,365	22,935	18,376	416,494
<b>TOTAL WATER</b>	<b>207,113</b>	<b>271,404</b>	<b>230,073</b>	<b>271,704</b>	<b>346,329</b>	<b>306,909</b>	<b>258,935</b>	<b>230,748</b>	<b>197,690</b>	<b>147,860</b>	<b>166,734</b>	<b>135,120</b>	<b>175,466</b>	<b>2,529,591</b>

Retail Percent of Total	33%	31%	49%	45%	45%	54%	54%	51%	54%	56%	40%	46%	36%	53%
Wholesale Percent of Total	34%	36%	42%	43%	43%	36%	38%	40%	38%	37%	46%	37%	53%	47%



**Summary of Total Billed Consumption (1,000 Gallons)  
Wastewater**

	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Bee Cave														-
<b>TOTALS</b>														-

Wholesale Wastewater	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Masonwood Wastewater	896	987	1,260	1,110	1,478	1,444	1,326	1,494	1,451	1,430	1,659	1,548	1,858	17,941
WCID 17 Wastewater	2,006	209	2,390	2,081	2,375	2,336	2,194	2,437	2,164	2,712	2,102	2,095	2,555	27,656
<b>TOTALS</b>	<b>2,902</b>	<b>1,196</b>	<b>3,650</b>	<b>3,191</b>	<b>3,853</b>	<b>3,780</b>	<b>3,520</b>	<b>3,931</b>	<b>3,615</b>	<b>4,142</b>	<b>3,761</b>	<b>3,643</b>	<b>4,413</b>	<b>45,597</b>

System Summary	March	April	May	June	July	August	September	October	November	December	January	February	March	12 Month Total
Total Retail	-											-		-
Total Wholesale	2,902	1,196	3,650	3,191	3,853	3,780	3,520	3,931	3,615	4,142	3,761	3,643	4,413	45,597
<b>TOTAL WASTEWATER</b>	<b>2,902</b>	<b>1,196</b>	<b>3,650</b>	<b>3,191</b>	<b>3,853</b>	<b>3,780</b>	<b>3,520</b>	<b>3,931</b>	<b>3,615</b>	<b>4,142</b>	<b>3,761</b>	<b>3,643</b>	<b>4,413</b>	<b>45,597</b>

Retail Percent of Total	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
Wholesale Percent of Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

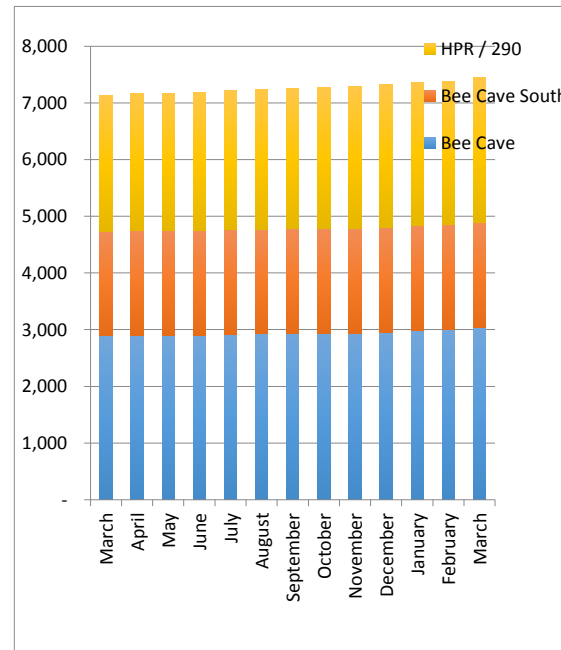




## Summary of Total Retail Customer Count Water

Meters	March	April	May	June	July	August	September	October	November	December	January	February	March
Bee Cave	2,894	2,902	2,905	2,904	2,914	2,926	2,932	2,931	2,937	2,958	2,982	2,997	3,031
Bee Cave South	1,836	1,839	1,843	1,846	1,848	1,849	1,848	1,849	1,847	1,852	1,855	1,856	1,859
Homestead / Meadow Fox	156	156	156	155	156	156	156	157	157	157	157	157	156
HPR / 290	2,396	2,417	2,423	2,442	2,453	2,467	2,477	2,483	2,501	2,518	2,523	2,533	2,557
<b>TOTALS</b>	<b>7,282</b>	<b>7,314</b>	<b>7,327</b>	<b>7,347</b>	<b>7,371</b>	<b>7,398</b>	<b>7,413</b>	<b>7,420</b>	<b>7,442</b>	<b>7,485</b>	<b>7,517</b>	<b>7,543</b>	<b>7,603</b>

Customer Growth	15	32	13	20	24	27	15	7	22	43	32	26	86
Monthly Growth Rate	0.21%	0.44%	0.18%	0.27%	0.33%	0.37%	0.20%	0.09%	0.30%	0.58%	0.43%	0.35%	1.14%
<b>Annual Growth</b>	<b>234</b>	<b>251</b>	<b>224</b>	<b>224</b>	<b>232</b>	<b>236</b>	<b>232</b>	<b>208</b>	<b>218</b>	<b>271</b>	<b>292</b>	<b>301</b>	<b>387</b>
<b>Annual Growth Rate</b>	<b>3%</b>	<b>4%</b>	<b>3%</b>	<b>3%</b>	<b>3%</b>	<b>3%</b>	<b>3%</b>	<b>3%</b>	<b>3%</b>	<b>4%</b>	<b>4%</b>	<b>4%</b>	<b>5%</b>





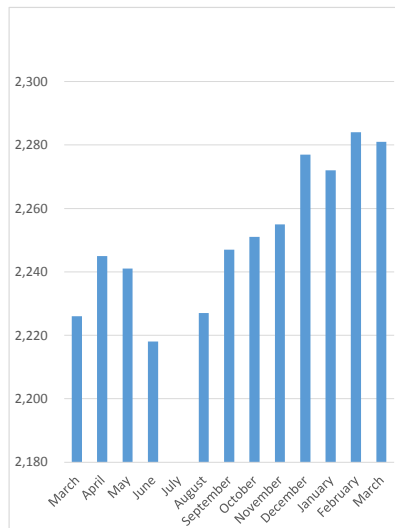


## Summary of Total Retail Customer Count

### Wastewater

Meters	March	April	May	June	July	August	September	October	November	December	January	February	March	Annual Growth Rate
Wastewater Customers	2,226	2,245	2,241	2,218		2,227	2,247	2,251	2,255	2,277	2,272	2,284	2,281	2%

Customer Growth	(20)	19	(4)	(23)	(2,218)	2,227	20	4	4	22	(5)	12	(3)
Monthly Growth Rate	-0.89%	0.85%	-0.18%	-1.03%	-100.00%	#DIV/0!	0.90%	0.18%	0.18%	0.98%	-0.22%	0.53%	-0.13%
Annual Growth	24	45	61	45	(2,211)	41	29	27	26	43	33	43	35
Annual Growth Rate	1%	2%	3%	2%	-101%	2%	1%	1%	1%	2%	1%	2%	2%

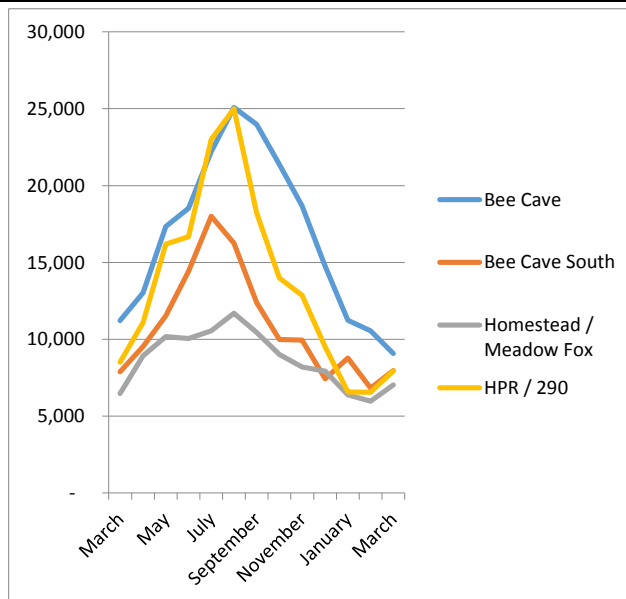




**Retail Customer Average Use Analysis**  
**Average Water Usage per Connection, per Month (Gallons)**

	March	April	May	June	July	August	September	October	November	December	January	February	March
Bee Cave	11,212	13,030	17,339	18,514	22,208	25,087	23,975	21,365	18,660	14,755	11,238	10,550	9,065
Bee Cave South	7,889	9,529	11,521	14,433	18,003	16,255	12,375	9,987	9,945	7,431	8,781	6,832	7,974
Homestead / Meadow Fox	6,474	8,936	10,173	10,058	10,558	11,699	10,442	9,006	8,204	7,936	6,395	5,975	7,038
HPR / 290	8,512	11,100	16,190	16,674	23,003	25,000	18,214	13,985	12,856	9,507	6,583	6,565	7,953
<b>System Wide Average</b>	<b>9,384</b>	<b>11,425</b>	<b>15,343</b>	<b>16,699</b>	<b>21,172</b>	<b>22,568</b>	<b>18,873</b>	<b>15,799</b>	<b>14,326</b>	<b>11,034</b>	<b>8,968</b>	<b>8,202</b>	<b>8,382</b>

<b>12-Month Average</b>	<b>14,441</b>	<b>14,403</b>	<b>14,368</b>	<b>14,334</b>	<b>14,299</b>	<b>14,263</b>	<b>14,228</b>	<b>14,197</b>	<b>14,165</b>	<b>14,125</b>	<b>14,082</b>	<b>14,037</b>	<b>13,989</b>
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**Retail Customer Average Use Analysis**  
**Summary of Customer Contacts/Payment Processing**

Customer Contacts	February	March	April	May	June	July	August	September	October	November	December	January	February	March
Date of	3/1-3/31	4/1-4/30	5/1-5/31	6/1-6/30	7/1-7/31	8/1-8/31	9/1-9/30	10/1-10/31	11/1-11/30	12/1-12/31	1/1-1/31	2/1-2/28	3/1-3/31	4/1-4/30
Calls	666	680	678	804	692	692	701	620	601	580	827	741	535	603
Emails	174	162	178	109	63	121	169	91	94	68	141	97	112	140
In Office	295	273	254	248	245	258	233	244	205	199	217	167	230	250
<b>TOTALS</b>	<b>1,135</b>	<b>1,115</b>	<b>1,110</b>	<b>1,161</b>	<b>1,000</b>	<b>1,071</b>	<b>1,103</b>	<b>955</b>	<b>900</b>	<b>847</b>	<b>1,185</b>	<b>1,005</b>	<b>877</b>	<b>993</b>

Payments	February	March	April	May	June	July	August	September	October	November	December	January	February	March
Date of Payments	3/1-3/31	4/1-4/30	5/1-5/31	6/1-6/30	7/1-7/31	8/1-8/31	9/1-9/30	10/1-10/31	11/1-11/30	12/1-12/31	1/1-1/31	2/1-2/28	3/1-3/31	4/1-4/30
Mail	3,921	2,101	1,617	1,402	1,736	1,601	1,743	1,747	1,454	1,577	1,347	1,001	2,068	1,466
Walk In/Dropbox Payments	346	322	332	314	352	322	200	358	305	244	316	230	350	243
Online Payments Credit Cards	400	455	461	391	457	364	346	419	353	367	456	379	378	355
Online Payments Echeck	424	438	423	397	438	409	356	512	306	431	454	394	389	346
Unreceivables	-	1,806	1,830	1,513	1,977	2,097	1,831	2,062	1,796	1,807	2,028	1,653	2,080	1,622
<b>TOTALS</b>	<b>5,091</b>	<b>5,122</b>	<b>4,663</b>	<b>4,017</b>	<b>4,960</b>	<b>4,793</b>	<b>4,476</b>	<b>5,098</b>	<b>4,214</b>	<b>4,426</b>	<b>4,601</b>	<b>3,657</b>	<b>5,265</b>	<b>4,032</b>



### Retail Customer Delinquency Summary

ACCOUNTS	31-60	61-90	91+
Bee Cave	119	20	106
Bee Cave South	18	3	30
Homestead / Meadow Fox	1	0	3
290 HPR	18	0	33
<b>TOTAL</b>	<b>156</b>	<b>23</b>	<b>172</b>

DOLLARS	31-60	61-90	91+
Bee Cave	19,578	14,199	110,935
Bee Cave South	815	1,455	34,827
Homestead / Meadow Fox	32	0	13,534
HPR / 290	1,266	0	117,356
<b>TOTAL</b>	<b>21,691</b>	<b>15,654</b>	<b>276,652</b>

Delinquent Letters	Date Sent	Total Del
Bee Cave	5-Apr	163
Bee Cave South	16-Apr	105
Homestead / Meadow Fox	9-Apr	11
290 HPR	9-Apr	127
<b>TOTAL</b>		<b>406</b>

Disconnects	Date	How Many
Bee Cave	18-Apr	25
Bee Cave South	1-May	21
Homestead / Meadow Fox	24-Apr	2
HPR / 290	24-Apr	10

Still Off
2
2
1
0

## **VII. NEW BUSINESS**

## ITEM A

April 19, 2018

The Honorable Todd Purcell, Mayor  
City of Dripping Springs  
P.O. Box 384  
Dripping Springs, Texas 78620

RE: USFWS MOU Compliance Requirement in Plat Notes

Dear Mayor Purcell,

The West Travis County Public Utility Agency (the "WTCPUA") adopted Service Rules and Development Policies in June, 2014 incorporating recommended water quality measures for new development in the May 24, 2000 United States Fish and Wildlife Service Memorandum of Understanding with the Lower Colorado River Authority (the "USFWS MOU") and a subsequent Settlement and Stipulation of Dismissal (collectively the "MOU Policies"). These MOU Policies allow three alternatives for compliance with water quality protection measures:

1. Measures approved by USFWS through separate Section 7 consultation, or other independent consultation;
2. TCEQ optional enhanced measures, Appendix A and Appendix B to RG-348 ("OEM"); or
3. U.S. Fish and Wildlife Service Recommendations for Protection of Water Quality of the Edwards Aquifer dated September 1, 2000 ("2000 USFWS Recommendations").

The WTCPUA is reviewing additional measures to ensure compliance with the MOU Policies. Accordingly, the WTCPUA requests that all plats processed or approved by the City include the following enforceable water quality provisions:

1. Lots [Add Lot Information] contain USFWS stream buffer zones and/or sensitive feature setbacks as indicated hereon that must remain free of construction, development, or other alterations. Impervious cover and/or approved optional enhanced measures (OEM) shall comply with the water quality plan approved for this subdivision and shall not be altered.

Thank you for your assistance in the implementation and enforcement of these capacity planning measures that are instrumental to the WTCPUA in managing its treated water capacity.

Please don't hesitate to contact me if you have any questions.

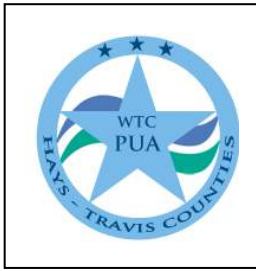
Sincerely,

Scott Roberts, President  
WTCPUA

cc: Michelle Fischer, City Administrator  
Ginger Faught, Deputy City Administrator



## **ITEM B**



## WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
Fax: 512/263-2289  
wtcpua.org

May 18, 2018

Travis County Commissioners Court  
P.O. Box 1748  
Austin, TX 78767

Re: Water Quality Requirements-Longhorn Development  
Deer Creek Ranch Water Company, LLC  
Hamilton Pool Road, Travis County, Texas

Dear Commissioners:

On behalf of the Board of Directors of the West Travis County Public Utility Agency (WTCPUA), I am writing to advise that per our Wholesale Agreement with Deer Creek Ranch Water Company, LLC (DCRWC), as a condition of receiving water service, proposed developments in DCRWC's service territory are to comply with either: (i) the FWS Measures or (ii) the applicable Regional Plan.

"FWS Measures" are defined as U.S. Fish and Wildlife Service water quality measures recommended for the same area in September, 2000.

The "Regional Plan" is more stringent water quality measures adopted by local jurisdictions with appropriate authority as part of a regional plan. Specifically, I have been advised that the "Regional Plan" is OEM requirements per TCEQ RG348.

Accordingly, water service to the development should not be established until we have reviewed and approved plans, specifications and water quality calculations demonstrating compliance with either requirement. In general, TCEQ approval of any proposed OEM design submittal per RG348 would meet WTCPUA approval requirements.

Further, we request that plat notes be added to any re-plat of the property stating that the Developer must, as a condition of receiving water service in DCRWC's service territory, comply with either: (i) the FWS Measures or (ii) the applicable Regional Plan.

Thank you for your consideration. If you have any questions concerning this matter, please contact me at 512-263-0100.

Sincerely,

Robert W. Pugh,  
General Manager

Travis County Commissioners Court

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May 18, 2018

Cc: Scott Roberts, President, WTCPUA Board of Directors  
Stephanie Albright, Lloyd Gosselink Rochelle & Townsend, P.C.

## ITEM C

**WATER  
UTILITY FACILITIES ACQUISITION AGREEMENT  
BETWEEN  
LOWER COLORADO RIVER AUTHORITY, 290 EAST BUSH, INC., AND HAYS  
COUNTY MUD NO. 4**

This Water Utility Facilities Acquisition Agreement (the "Agreement") made and entered into as of this 19th day of October, 2006 (the "Effective Date") by and between the Lower Colorado River Authority ("LCRA"), a conservation and reclamation district created and functioning under Article XVI Section 59 of the Texas Constitution, with its principal place of business in the City of Austin, Travis County, Texas; 290 East Bush, Inc. ("Seller"), a Texas corporation, having its principal place of business located in Hays County, Texas; and the Hays County Municipal Utility District No. 4 ("MUD"), a body politic and corporate and a governmental agency of the State of Texas, organized pursuant to Article XVI Section 59 of the Texas Constitution, having its principal place of business located in Hays County, Texas (LCRA, Seller and the MUD are collectively referred to herein as the "Parties").

**R E C I T A L S**

WHEREAS, the LCRA intends to provide retail water utility services (the "Services") to the Tract, as defined below in Section 1.23 of this Agreement, as the same may be subdivided from time-to-time, which area is located in the extra-territorial jurisdiction ("ETJ") of the City of Dripping Springs, Hays County, Texas; and

WHEREAS, the Tract is located in the certificated retail water service area designated as CCN No. 11670, formerly owned by the Hill Country Water Supply Corporation under CCN No. 12485 ("HCWSC"); and

WHEREAS, LCRA purchased the assets of HCWSC, including CCN No. 12485, in January 2004 and assumed the obligations of HCWSC to provide water Services to properties within its CCN; and

WHEREAS, LCRA and Seller executed a Letter of Intent dated June 29, 2006 (Exhibit "A"), which forms the basis for this Agreement; and

WHEREAS, the Tract is also located within the territorial boundaries of the MUD; and

WHEREAS, Seller previously has entered into that certain "Utility Construction Agreement," as that term is defined below in Section 1.25 of this Agreement, with the MUD (Exhibit "B"); and

WHEREAS, LCRA, MUD and Seller desire to allow for orderly, efficient and economic development of Seller's property and facilitate the regionalization of water services in Hays County for their mutual benefit, as well as the benefit of the environment and surrounding communities; and

WHEREAS, to facilitate regionalization of such essential utility Services LCRA, MUD and Seller have entered into this Agreement to reallocate among the respective Parties the rights and obligations related to the construction, ownership, operation and maintenance of the Water Utility Facilities, and lawful reimbursement of certain costs incurred by the Seller, according to the terms of this Agreement and applicable State law; and

WHEREAS, in order to provide the Services to the Tract, LCRA desires to purchase from time to time the water distribution facilities (the "System") to be constructed by the Seller to serve the Tract; and

WHEREAS, the System may be purchased in whole, or in discrete units from time to time based upon the agreement of LCRA and Seller; and

WHEREAS, the Parties acknowledge that Seller has constructed portions of the System to serve sections 1 and 2 of the Tract, but Seller has yet to construct any portion of the System to serve section 3 of the Tract; and,

WHEREAS, the Seller, as the owner of the Tract intended to be benefited by the System desires that the construction and/or sale of the System proceed without delay, and Seller has constructed or is willing to construct the System and, upon completion of construction, with the consent and agreement of the MUD, is willing to convey the same to LCRA, pursuant to Section 54.2351, Texas Water Code, based upon the understanding that the MUD shall reimburse Seller for the maximum allowable portion of the costs incurred to design, engineer, permit and construct the System pursuant to the terms and conditions contained herein; and

WHEREAS, in consideration of LCRA's agreement to assume the obligation to provide the Services to the Tract, including the continued operation, maintenance, repair and upkeep of the System, pursuant to the terms of this Agreement, the MUD is willing to enter into amendments to the Utility Construction Agreement (i) to facilitate the conveyance of the System to LCRA, and (ii) to continue to be obligated to reimburse to the maximum extent allowed by law all of Seller's costs associated with the construction and acquisitions of the System as part of the "Developer's Costs," as that term is defined in the Utility Construction Agreement; and

WHEREAS, Seller commenced construction of portions of the System prior to the Effective Date of this Agreement pursuant to plans and specifications previously approved by both LCRA and MUD; and

WHEREAS, LCRA and MUD have been inspecting the construction of portions of the System on an ongoing basis; and

WHEREAS, the LCRA, the Seller and the MUD desire to enter into this Agreement for the continued construction, use and purchase of the System, and reimbursement to Seller.

**W I T N E S S E T H :**

For valuable consideration passing from and to each of the respective Parties, receipt of which is hereby acknowledged by each of the Parties, and in consideration of the mutual covenants herein expressed, the Parties hereto covenant and agree as follows:

**SECTION 1**  
**DEFINITIONS**

In addition to any terms expressly defined elsewhere in this Agreement or in the Exhibits hereto, the following words and terms shall have the following meanings respectively whenever they are used herein:

**Sec. 1.01. "Agreement"** shall mean this Water Utility Facilities Acquisition Agreement between LCRA, Seller and the MUD.

**Sec. 1.02. "Annual Reimbursement Amount"** shall mean the amount, if any, to be paid in any particular year to Seller by the MUD for the System, or any relevant portion thereof determined as provided in Section 3.1.

**Sec. 1.03. "Bush Ranch – Phase I"** shall mean the 116.8 acres of land, more or less, located along the northern edge of State Highway 290 in Hays County, Texas, commonly known as the Village at Ledgestone, more particularly described in that certain Plat recorded in Volume 13,



Pages 225-232, of the Official Plat Records of Hays County, Texas, and reflected on the plat attached hereto as Exhibit "C."

**Sec. 1.04. "Closing(s)"** shall mean the event(s) of execution and delivery from time to time by LCRA and Seller of all documents conveying, selling, transferring, or assigning the interests and property of Seller constituting the System, or any relevant portion thereof to LCRA, all as described in this Agreement, and the performance of all acts necessary to complete such execution and delivery.

**Sec. 1.05. "Closing Date(s)"** shall be a date or dates in accordance with Section 4.01 of this Agreement.

**Sec. 1.06. "Commission"** shall mean the Texas Commission on Environmental Quality ("TCEQ" or "Commission"), or any successor agency thereof.

**Sec. 1.07. "Connection Fee"** shall mean the one-time capital recovery fee, or impact fee, charged by the LCRA for new retail connections to the Water System according to the LCRA Tariff.

**Sec. 1.08. "DS Agreement"** shall mean the Seller's agreement with the City of Dripping Springs (the "City") dated July 25, 2002, entitled "Agreement Concerning Creation and Operation of Hays County Municipal Utility District No. 4 and Lands Within the District." Copies of the DS Agreement have been provided to all of the Parties, and the DS Agreement is on file with the City of Dripping Springs, Texas. The DS Agreement is appended to this Agreement as Exhibit "G."

**Sec. 1.09. "Edwards Aquifer Protection Program"** shall mean the "Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer" published in an Appendix to the Commission's Regulatory Guidance Document RG-348 (February 14, 2005), and

approved by the United States Fish and Wildlife Service as an alternative to a no "take" determination under the Endangered Species Act.

**Sec. 1.10. "Effective Date"** shall mean the date referenced on the first page of this Agreement.

**Sec. 1.11. "Engineer" or "Seller's Engineer"** means any engineer licensed in the State of Texas, contracted by the Seller to perform the engineering functions contemplated by this Agreement; and with respect to the Certificates attached hereto as Exhibits "D" and "E," Seller's Engineer shall be subject to approval by LCRA.

**Sec. 1.12. "Internal Water System"** shall mean the water distribution system dedicated to serve customers exclusively within the Tract, and any related storage and transmission facilities, or any relevant portion thereof, if constructed in phases, including any easements, rights-of-way or similar interests, to be constructed or acquired by Seller and to be granted, conveyed, sold, assigned or transferred from time to time at Closing(s) to LCRA pursuant to the terms of this Agreement. It is specifically understood that Seller may construct the Internal Water System in phases. LCRA and Seller agree to cooperate in good faith as any portion of the Tract begins to receive Services from any portion of the Internal Water System and to define the portion of the Internal Water System that will then be subject to reimbursement by the MUD under this Agreement.

**Sec. 1.13. "LCRA" or "Buyer"** shall mean the Lower Colorado River Authority, or any successor entity.

**Sec. 1.14. "LCRA System"** shall mean the LCRA West Travis County Regional Water System.

**Sec. 1.15. "LCRA Tariff"** means LCRA's rate schedule and service policies for the region that includes the Tract, which region currently is the Bee Cave South Water Rate District of the

LCRA System, as such tariff may be amended by the LCRA Board of Directors from time-to-time.

**Sec. 1.16. "MUD"** shall mean the Hays County Municipal Utility District No. 4.

**Sec. 1.17. "Officer"** shall mean any person having authority to perform management functions and execute legal agreements for LCRA, Seller, or the MUD.

**Sec. 1.18. "Other Customers"** shall mean customers who receive Services from LCRA through a portion of the System and who are located outside of the Tract.

**Sec. 1.19. "Party" or "Parties"** shall mean LCRA, Seller, and the MUD together with their respective successors and assigns.

**Sec. 1.20. "Seller"** shall mean 290 East Bush, Inc., a Texas corporation, and any successor in title to ownership of the Tract.

**Sec. 1.21. "Services"** shall mean retail potable water utility services provided in accordance with the LCRA Tariff.

**Sec. 1.22. "System"** shall mean the Internal Water System, as that term is defined in Sections 1.13 of this Agreement.

**Sec. 1.23. "Tract"** means the Bush Ranch – Phase I property now commonly known as "Ledge Stone," containing 116.8 acres, more or less, in Hays County, Texas, owned in fee by Seller and depicted in **Exhibit "C"** attached hereto.

**Sec. 1.24. "Total Reimbursable Amount"** means the amount to be paid to Seller by the MUD for the System (or any relevant portions thereof) to be constructed on the Tract and conveyed to LCRA, as provided in Section 3.1 of this Agreement, pursuant to Section 54.2351, Texas Water Code.

**Sec. 1.25. "Utility Construction Agreement"** shall mean the Utility Construction Agreement between Hays County Municipal Utility District No. 4 and 194 Bush, Ltd., dated July 22, 2005, a copy of which is appended to this Agreement as Exhibit "B."

**Sec. 1.26. "Water System"** shall mean the "Internal Water System" as that term is defined in Section 1.13 of this Agreement.

## **SECTION 2**

### **CONSTRUCTION OF WATER SYSTEM**

**Sec. 2.01. General.** Seller shall design and construct, or acquire and, as necessary, permit, the Water System as provided in this Agreement.

**Sec. 2.02. Design of the System.** All physical facilities to be constructed as a part of the System shall be designed by Seller's Engineer, and approved by the LCRA and any other governmental agencies with jurisdiction, including potentially, without limitation, the Texas Department of Health, the Commission and Hays County. The connection of any existing facilities acquired by Seller to become part of the System shall be designed by Seller's Engineer and approved as prescribed in this Section 2.

**Sec. 2.03. Construction and Acquisition of the System.**

- (a) The System shall be constructed and all easements, equipment, materials and supplies required in connection therewith shall be acquired in the name of Seller. All construction contracts and other agreements executed after the Effective Date of this Agreement, as well as any amendments executed after the Effective Date to contracts entered prior to the Effective Date of this Agreement, shall contain the language provided in Section 2.5(a) below, to the effect that any contractor, materialman, or other party thereto shall look

solely to the Seller for payment of all sums coming due thereunder and that neither the LCRA, nor the MUD, shall have any obligation whatsoever to any such party.

- (b) With respect to the portions of the System under construction on the Effective Date of this Agreement, Seller shall provide the LCRA with a Certificate of Design from Seller's Engineer substantially in the form attached hereto as Exhibit "D," certifying that construction of the System in accordance with the design and construction plans will result in the development of the Tract in a manner reasonably consistent with the Commission's Edwards Aquifer Protection Program and the Letter of Intent appended hereto as Exhibit "A."
- (c) All plans and specifications and construction contracts (including all Payment and Performance Bonds) for the System prepared and entered into after the Effective Date of this Agreement shall be reviewed and approved by LCRA. Construction contracts, and any amendments thereto, entered into after the Effective Date of this Agreement shall be awarded by receiving at least three sealed competitive bids.
- (d) LCRA shall review and approve the form, substance and award of all construction contracts and, during construction, any change orders thereto except for those construction contracts and change orders Seller has entered or approved prior to the Effective Date of this Agreement. LCRA agrees to review any change orders on an expedited basis within five (5) working days at Seller's request; provided, however, that where it will not unreasonably delay Seller's construction, LCRA shall have ten (10) working days to review change orders. LCRA shall designate a person from time to time

to provide reviews and approvals under this subsection. LCRA initially designates Cary Needham, LCRA Water and Wastewater Engineering and Construction, 3700 Lake Austin Blvd., Austin, Texas 78703, telephone (512) 473-3333 ext. 2049, fax (512) 397-6722, as its agent to review and approve construction contracts and change orders. Changes to this designation may be made by providing notice in accordance with Section 6 below.

- (e) The Seller shall make annual reports to the LCRA and the MUD on the monies paid to contractors and/or materialmen for the System and shall maintain accounts in such a manner to reflect separately the payments subject to the Seller's contribution as required by Commission rules (currently 30 Texas Administrative Code Chapter 293, subchapter E). The Seller shall include a written summary of such accounts to the LCRA and the MUD with its annual reports. The Seller's carrying charges shall be calculated based upon these separate accounts rather than upon a combination of the total construction costs. Seller shall provide these annual reports not later than April 30 of each calendar year during the term of this Agreement.
- (f) Seller will use or has used its best efforts to ensure that the System is or was constructed in a good and workmanlike manner and that all materials used in such construction shall be free from defects and fit for their intended purpose. LCRA will review or has reviewed the plans and specifications for, and had on-site inspector inspecting the construction of portions of the System to serve sections 1 and 2 of the Tract, including post-construction testing of those portions of the System. Seller will pay \$25,540 for inspection fees

pursuant to the LCRA tariff for LCRA's reviews and inspections related to the portions of the System to serve sections 1 and 2 of the Tract. Seller and LCRA shall agree upon a schedule for the payment of these inspection fees related to sections 1 and 2 of the Tract over a period extending until the earlier of: (i) issuance of the first bonds by the MUD related to the System; or, (ii) December 31, 2008. In addition, Seller agrees to pay review and inspection fees according to the LCRA tariff for any future construction by Seller on the System to serve the Tract. Seller acknowledges that LCRA's obligation to accept any portion of the System containing any Seller's unapproved change(s) to the System made during construction prior to the Effective Date shall be subject to the requirements of this Agreement and LCRA's subsequent approval.

- (g) Within 60 days from the later of: (i) the Effective Date of this Agreement, or (ii) completion of construction of the System, or relevant portion thereof, Seller shall provide the LCRA with final "record" drawings of the System approved by the LCRA's engineers.
- (h) Within 60 days from the later of: (i) the Effective Date of this Agreement, or (ii) completion of construction of the System, or relevant portion thereof, Seller shall provide the LCRA with (i) applicable acceptance letters and a certificate of completion from the Seller's Engineer, substantially in the form attached hereto as **Exhibit "E,"** certifying that the construction of the System has been completed substantially in accordance with the plans and specifications approved by the LCRA and in a manner reasonably consistent with the Commission's Edwards Aquifer Protection Program and the Letter of Intent

appended hereto as **Exhibit "A"**; and (ii) a copy of all supplier, contractor, vendor and/or manufacturer guarantees and warranties.

**Sec. 2.04. Guarantees, Warranties and Bonds for the System.**

- (a) Seller, LCRA and the MUD agree that the estimated costs of the System as of the Effective Date (herein "Cost of the System"), are set forth in **Exhibit "F."**
- (b) Duty to Repair and Warranty. Except as otherwise specified, Seller agrees to repair all defects in materials, equipment or workmanship appearing within **one (1) year** from the Completion Date(s) to comply with the agreed specifications for the System. Upon receipt of written notice from LCRA of the discovery of any defects, Seller shall promptly and at its own cost remedy the defects and replace any property damaged therefrom. In case of emergency, where delay would cause serious risk of loss or damage to LCRA or its customers, or if the Seller, after notice, fails to proceed promptly toward such remedy within 30 days or within another period of time that has been agreed to in writing, LCRA may have defects in the System corrected in compliance with the terms of this warranty and guarantee, and Seller shall be liable for all reasonable and necessary expenses incurred by LCRA in so doing.
- (c) Assignment of Guarantee and/or Warranty Obligations. In addition to Seller's duty to repair, as set forth above, Seller expressly assumes all guarantee and/or warranty obligations required by LCRA under the approved plans and specifications for specific components, materials, equipment or workmanship consistent with the agreed specifications of the System. Seller may satisfy its duty to repair in subsection (b) and the



guarantee and/or warranty in this subsection (c) by obtaining and assigning to LCRA, by written instrument in a form approved by counsel for the LCRA, which approval shall not be unreasonably withheld or delayed, a complying guarantee and/or warranty from a manufacturer, supplier, or contractor. Where an assigned guarantee and/or warranty is tendered and accepted by LCRA that does not fully comply with the requirements of the agreed specifications, Seller shall remain liable to LCRA on all elements of the required guarantee and/or warranty that are not provided by the assigned guarantee and/or warranty; provided, however, that LCRA has previously provided Seller with the "form" of guarantee and/or warranty reasonably acceptable to LCRA.

- (d) Performance Bonds and/or Payment Bonds. Where required by this Agreement, Performance and/or Payment Bonds shall be issued in the amount of the Cost of the System, or either of them as appropriate, as security for the faithful performance and/or payment of all Seller's obligations under this Agreement. Performance Bonds and Payment Bonds shall be issued by a solvent U.S. corporate surety acceptable to LCRA and authorized to do business in the State of Texas, and shall meet any other requirements established by law or by LCRA pursuant to applicable law. The Bonds shall be executed or countersigned by a Texas resident agent. All Bonds shall be in a form that complies with this Agreement and is approved by counsel for the LCRA, which approval shall not be unreasonably withheld or delayed. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act. Any surety duly authorized to do business in Texas may write Performance and Payment Bonds on a project without reinsurance to the limit of 10 percent of its capital and surplus. Such a

surety must reinsure any obligations over 10 percent. If the surety on any Bond furnished by Seller is declared bankrupt or becomes insolvent or its right to do business in the State of Texas is terminated or it ceases to meet the requirements of this Agreement, Seller shall, within ten (10) days thereafter, substitute another Bond and surety, both of which shall comply with the requirements of this Agreement.

- (e) **Performance Bond.** Seller shall obtain a Performance Bond from its general contractor(s) that shall extend and remain in effect through the guarantee and/or warranty period as provided in this section. The Performance Bond shall provide that Seller may assign, without notice to the Performance Bond's surety, all of Seller's rights under the Performance Bond to the LCRA at Closing. Seller shall execute, at Closing, a written instrument in a form approved by counsel for the LCRA to assign all of Seller's rights under the Performance Bond to the LCRA.
- (f) **Payment Bond.** Seller shall obtain from its general contractor(s) a Payment Bond. The Payment Bond shall remain in effect until proof that all Seller's due payment in connection with construction of the System, or any portion thereof as appropriate, pursuant to this Agreement have been properly paid, or until the statutory time for notice of unpaid bills has expired, whichever is later. Claims on Payment Bonds must be sent directly to the Seller and their surety in accordance with §2253.041, Texas Government Code. LCRA is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no responsibility because of any representation by an agent or employee.
- (g) **Liability Insurance.** Seller shall require its construction contractors to carry general liability insurance coverage in amounts of not less than \$1,000,000.00 for any single

occurrence, and not less than \$2,000,000.00 in the aggregate. Additionally, Seller shall require that LCRA and the MUD be named as "additional insureds" under the policy(s).

- (h) Workers' Compensation Insurance. Seller shall require its construction contractors to carry workers' compensation insurance on coverage terms generally applicable to water districts in Texas.

**Sec. 2.05. Cost of System to be Funded by Seller.**

- (a) Seller shall promptly pay the costs of constructing, or acquiring the System as appropriate, as the same become due in accordance with the applicable construction contract(s), including, without limitation, (i) all costs of design, engineering, materials, labor, construction and inspection, and/or permitting, arising in connection with the System; (ii) all payments arising under any contracts entered into for the construction of the System; (iii) all costs incurred in connection with obtaining governmental approvals, certificates, permits, easements, rights-of-way, or sites required as a part of the construction of the System; and (iv) all out-of-pocket expenses incurred in connection with the construction of the System. Neither LCRA nor the MUD shall be liable to any contractor, engineer, attorney, materialman, or other party employed or contracted with by Seller in connection with the construction of the System, but shall only be obligated, as applicable, to reimburse the Seller in the manner and to the maximum extent allowed by law as provided for in this Agreement and the Utility Construction Agreement. Seller agrees that all construction contracts and other agreements entered into by Seller pertaining to the acquisition or construction of the System shall contain the following provision:  
  
"Contractor shall look solely to 290 East Bush, Inc. [Seller] for payment of all sums

**due under this agreement. Nothing in this agreement shall create any relationship between Contractor and either the Lower Colorado River Authority, or the Hays County Municipal Utility District No. 4, and neither the Lower Colorado River Authority, nor the Hays County Municipal Utility District No. 4, shall have any obligation to Contractor for any sums due under this agreement.”**

- (b) LCRA acknowledges and agrees that Seller shall be entitled (i) to fund the cost of constructing and/or acquiring the System, or any portion thereof, by borrowing the necessary funds pursuant to any arrangement reasonably acceptable to Seller, and (ii) to grant liens against the Tract and/or the System to secure repayment of said loans; provided, however, that the System, or that portion to be conveyed to LCRA shall be free from any such lien(s) prior to or at the time of conveyance to LCRA at Closing as provided in Section 4.

**Sec. 2.06. Indemnity.** Seller, subject to the provisions of Sections 7 and 9, and Section 11.10 of this Agreement, shall indemnify and hold LCRA and the MUD harmless from and against all losses, costs, damages, expenses and liabilities (herein collectively referred to as “Losses”) of whatsoever nature, including, but not limited to, attorneys’ fees, costs of litigation, court costs, amounts paid in settlement and amounts paid to discharge judgments relating to any claim, lawsuit, cause of action or other legal action or proceeding brought against LCRA or the MUD, or to which LCRA or the MUD may be a party, even if groundless, false or fraudulent, directly resulting from, arising out of or relating to the construction of the System. In the event of any action brought against LCRA or the MUD in which indemnification by Seller is applicable, LCRA, the MUD, or both, shall promptly give written notice to Seller, and Seller shall assume

the investigation and defense of such action, including the employment of counsel and the payment of all expenses. LCRA and/or the MUD shall have the right, as applicable, at its expense, to employ separate counsel and to participate in the investigation and defense of any such action. Seller shall not be liable for the settlement of any such action made by LCRA, the MUD, or either of them, without the consent of Seller; provided, however, that in the event of any settlement entered into with the consent of Seller or of any final judgment for a plaintiff in any such action, Seller shall indemnify and hold LCRA and/or the MUD, as appropriate, harmless from and against any losses incurred by reason of such settlement or judgment. The expiration of the term of this Agreement shall not relieve Seller from any liability hereunder arising prior to the expiration of this Agreement.

**Sec. 2.07. LCRA's Ability to Construct the System.** In the event Seller is unable or unwilling to construct the System, or any portion of it which, in the opinion of LCRA, is necessary in order to provide Services to customers in the Tract, then the LCRA may, but is not obligated to, proceed with construction and installation of the System, or any portion thereof, at its own expense.

**Sec. 2.08. Approvals.** Unless otherwise expressly defined or specified in this Agreement, including but not limited to this Section 2, whenever any "approval" is required during the term of this Agreement by any Party, the Party intended to provide said approval shall have a reasonable period of time, not to exceed twenty (20) working days, in which to complete its review and to provide, or deny, the required approval; provided, however, that in no case shall any approval be unreasonably withheld, delayed, and/or denied.

**SECTION 3**  
**REIMBURSEMENT FOR FUNDS ADVANCED BY SELLER**

**Sec. 3.01. Time and Amount of Reimbursement.**

- (a) Pursuant to Section 54.2351, Texas Water Code, the MUD agrees to reimburse Seller for its expenditures for the System in the maximum amount allowable by the Commission to be paid to Seller by a "district," as that term is currently defined by Sections 49.001 and 54.001, Texas Water Code, in accordance with the terms and timetables previously agreed to in the Utility Construction Agreement (the "Reimbursement Price"). The MUD's obligations to make such reimbursements are hereby confirmed in consideration of the benefits accruing to the MUD in lieu of Seller's conveyance of the System to the MUD originally contemplated by the Utility Construction Agreement.
- (b) The Parties agree and acknowledge that in consideration of the benefits to accrue to the Parties pursuant to this Agreement that it is their mutual intent and desire to provide Seller with the maximum reimbursement allowed by law and the Texas Administrative Code, title 30, chapter 293, subchapter E, as the same may be amended from time-to-time, that is consistent with this Agreement.

**Sec. 3.02. Conveyance to LCRA.** Pursuant to Section 54.2351, and notwithstanding its rights pursuant to the Utility Construction Agreement, the MUD (i) consents to the conveyance of the System to LCRA pursuant to this Agreement, and (ii) confirms its retention of the obligation to reimburse Seller's costs for the same to the maximum extent allowed by law in consideration of the following:

- (a) LCRA's assumption of the obligation of, and liability for, providing Services to the Tract on a continuous, adequate and reliable basis at reasonable retail rates in accordance with applicable State and Federal law.
- (b) LCRA's assumption from and after the completion of construction and closing of the conveyance of the System, or any portion thereof as applicable, of all obligations related to the ownership and operation of the System, including all maintenance and repairs (subject to the warranty, bond and other related provisions of this Agreement), improvements and expansion or replacement or upgrade thereof required to meet the obligations contemplated by subsection (a) of this Section 3.2.

**Sec. 3.03. Operation by LCRA.**

- (a) From and after the date that LCRA accepts the System (or portion thereof) for operation, LCRA shall pay for operation of the System. To recover its costs, LCRA shall be entitled to establish, charge and collect, pursuant to the LCRA Tariff, reasonable rates and fees for retail potable water Services to customers within the Tract. LCRA shall be entitled to recover a reasonable Connection Fee as well as a tap fee to set a water meter in accordance with the LCRA Tariff. Otherwise, LCRA shall not be entitled to charge and/or recover any other capital recovery fees or related charges based on the costs of the Water System that fall within the definition of "impact fee" as defined in Chapter 395 of the Texas Local Government Code from new customers located within the Tract.
- (b) LCRA further acknowledges and agrees that LCRA shall have no interest in, or right to receive, any portion of the operation and maintenance tax that may be levied, assessed and/or collected by the MUD to fund the MUD's operation of facilities other than the

Water System owned and/or controlled or operated by the MUD within the Tract, or other portions of the MUD's territory, including any water quality features owned, operated and maintained by the MUD that may have been constructed by Seller and conveyed to the MUD pursuant to the Utility Construction Agreement.

**Sec. 3.04. Survival Clause.** The rights and obligations of the respective Parties established by this Section 3 of the Agreement shall survive the Closing(s) of the Conveyance of the System, or any portion thereof, contemplated by this Agreement, and/or the termination of this Agreement and for any other reason, it being the express intent and desire of the Parties that they should be entitled to the full benefits of the bargained-for consideration reflected herein.

#### **SECTION 4** **CLOSING AND USE OF THE SYSTEM**

**Sec. 4.01. Closing(s).**

- (a) Upon completion of construction of the System, or any distinct operational portion or phase thereof, and upon approval by LCRA of the construction and certification by the Seller's Engineer that construction has been accomplished in accordance with the plans and specifications, and any change orders thereto, approved by LCRA in the form appended hereto as **Exhibit "E,"** Seller and LCRA shall determine and agree upon a date, time and location for a Closing or Closings of the conveyance of the System to LCRA



within a reasonable amount of time thereafter. At the Closing(s), Seller shall convey the System (or portion thereof), including any easements, rights-of-way or similar real property rights necessary for the use of the System by LCRA, and along with any associated Payment or Performance Bonds or Contractor Guarantees/Warranties, to LCRA, which shall, thereafter, be the owner of same.

- (b) The conveyance(s) shall be made by documents acceptable to the LCRA and its attorneys, which acceptance shall not be unreasonably withheld, delayed, or denied.
- (c) Except as provided herein otherwise, the System, or the applicable portion thereof, shall be conveyed free and clear of any liens, claims or encumbrances that would materially impair the value of the System or LCRA's intended use of the System. In the execution of any instruments of conveyance, transfer or assignment of the System to be acquired at any Closing, Seller shall represent and warrant to the LCRA that, to the best of Seller's knowledge: (i) there are no defects, impairments, impediments, defaults, breaches, encumbrances or other similar problems with respect to (a) the quality, layout or physical condition or state of repair of the System, (b) the location of the System in any flood plain, flood-way or special flood hazard area, (c) compliance by Seller in relation to the System with any laws, rules, ordinances, or regulations of any applicable governmental authority, including zoning and other land use regulations, and (d) Seller's compliance with any applicable, lawfully enforceable environmental protection, pollution or related land use laws, rules, regulations, orders or requirements, including, but not limited to, those pertaining to the use, handling, generating, treating, storing or disposing of any hazardous waste, hazardous substances, petroleum product storage tanks or asbestos,

those pertaining to public drinking water systems or utilities and those pertaining to protection of endangered or threatened species; (ii) there are no liens, claims or encumbrances affecting the real or personal property or interests therein comprising any portion of the System being conveyed to LCRA that would materially impair the value of the property or LCRA's intended use of the property; and, (iii) there are no actions, suits, inquiries, or proceedings pending or to the knowledge of officials of Seller threatened against or affecting Seller before any court or administrative body or agency that would materially adversely affect the execution, delivery, or performance by Seller of this Agreement.

- (d) At least thirty (30) days prior to any Closing, Seller, at its sole cost and expense, will furnish to LCRA a commitment for the issuance of an owner's policy of title insurance from a title company approved by LCRA (the "Title Company"), committing to insure any real property or easements to be conveyed to LCRA at the upcoming Closing in an amount equal to the portion of the Reimbursement Price to be paid by the MUD to Seller related to such real property or easements, together with good legible copies of all documents constituting exceptions to title as reflected in the title commitment. Seller also will provide to LCRA, at least thirty (30) days prior to any Closing, surveys or plats of all easements to be transferred at the Closing to LCRA by virtue of this Agreement. As to items to which LCRA makes objections, Seller will have an obligation to cooperate with LCRA to effectuate the cure of such objections and will bear all costs to release all liens on said real property and easements, as well as costs to release other claims or encumbrances to the extent the same would materially impair LCRA's ability to operate

and use the System, or portion thereof to be conveyed for its intended purpose. If all of LCRA's objections are not cured prior to the Closing Date, LCRA will have the right to either (i) enforce this Agreement by specific performance, injunction, or similar remedy; or (ii) waive such title matters and proceed to Closing, whereupon the waived objections will also be deemed "Permitted Exceptions." LCRA may, but will not be required to, exercise its powers of eminent domain to correct any objections, provided that Seller shall reimburse LCRA in the event LCRA uses such power to remove any liens, claims or encumbrances on the System, subject to Seller's right to reimbursement by the MUD. Provided, however, that in the event LCRA could cure any objections by the exercise of its powers of eminent domain, but chooses not to so cure notwithstanding Seller's willingness to reimburse LCRA pursuant to this subsection (d), then such objections shall also be deemed "Permitted Exceptions." At Closing, Seller, at its sole cost and expense, will furnish LCRA with an owner's policy of title insurance issued by the Title Company on the standard form in use in the State of Texas, insuring good and indefeasible title to the applicable property in the LCRA, subject only to the Permitted Exceptions and the standard printed exceptions; provided, however, that, at LCRA's sole expense and option, the exception relative to "discrepancies, conflicts or shortages in area or boundary lines, or any encroachments of protrusions or any overlapping of improvements" may be limited to "shortages in area."

- (e) From the Effective Date of this Agreement and continuing through the Closing, upon reasonable request by LCRA, Seller shall make available for inspection and copying (at LCRA's expense) during normal working hours in Austin, Texas, within two (2) business

days of the date of request, the following: (i) to the extent same are reasonably available to or in Seller's possession, copies of all non-attorney client privileged construction records, subcontractor and vendor records, manufacturer records, maintenance records, deeds, easements, licenses, permits, non-attorney client privileged documents submitted to and correspondence between the Seller and state or federal regulatory agencies, certificates, soil reports, and engineering reports (including, without limitation, endangered species, environmental and governmental inspection reports) of Seller related to the construction, ownership or operation of the System; and, (ii) to the extent same are reasonably available to or in Seller's possession, all insurance policies (both casualty and liability), performance bonds, payment bonds or warranties covering or affecting the System. Seller shall retain all of the above records for a period of two (2) years from their inception. In addition, Seller shall notify LCRA in writing prior to destruction of any such records, and Seller shall deliver such records to LCRA if requested by LCRA within thirty (30) days of Seller's written notice.

- (f) Seller shall provide to LCRA, and LCRA shall accept, possession of the System, or the applicable portion thereof, prior to the Closing upon completion of construction of the Water System (or any applicable portion thereof) and further subject to: (i) written concurrence thereof by LCRA which concurrence shall not be delay or withheld unreasonably; (ii) the limitations of section 10 of this Agreement; and, (iii) Seller's obligations for the repair and/or replacement of the Water System in accordance with this Agreement, subject to LCRA approval, until Closing. Following LCRA's acceptance of

possession of the System, LCRA shall have the right and duty to operate, maintain, repair and/or replace the same in accordance with all applicable State and Federal laws.

- (g) All costs and expenses in connection with the Closing, whether one or more, contemplated by this Agreement to be allocated at Closing shall be allocated as follows:
  - (i) LCRA shall pay for LCRA's attorney's fees, costs of recording easements and other costs stipulated to be paid by LCRA under the other provisions of this Agreement; and,
  - (ii) Seller shall be responsible for Seller's attorney fees, costs of releasing liens, and other expenses stipulated to be paid by Seller under other provisions of this Agreement.

**Sec. 4.02. Retail Potable Water Services by LCRA.**

- (a) Following LCRA's acceptance of possession of the System, LCRA shall be under a duty to provide retail potable water Services in an amount necessary to serve the Tract, or any relevant portion thereof subject to Seller's obligations for the repair and/or replacement of the Water System in accordance with this Agreement and subject to LCRA approval, until Closing. LCRA agrees to provide such retail potable water Services in accordance with any applicable Commission standards and in accordance with the LCRA Tariff, in a manner consistent with this Agreement.
- (b) Seller and the MUD agree to cooperate with LCRA in regard to LCRA providing such retail potable water Services within the Tract; provided, however, that such cooperation shall be at no expense either to Seller or the MUD, unless LCRA agrees to reimburse Seller or the MUD, as applicable, for any reasonable actual costs incurred to support LCRA's efforts to provide such retail potable water Services.

(c) Seller recognizes that LCRA is required and committed to extending potable water Services to the Tract in accordance with its obligations pursuant to LCRA's CCN No. 11670 and State law. Seller also recognizes that LCRA desires to encourage protection of water quality on lands within its jurisdiction and, in particular, those areas located over the recharge and contributory zones of the Edwards Aquifer. In partial consideration of LCRA's agreement to assume the obligations and liability for the continued operation and maintenance of the Water System, and Seller's right to be reimbursed by the MUD for Seller's costs associated with the Water System and the water quality features contemplated by the Letter of Intent, Seller has agreed with the MUD to assist LCRA to accomplish LCRA's water quality goals as follows:

1. Seller agrees to develop the Tract in a manner consistent with the Commission's Optional Enhanced Measures pertaining to stream buffers, permanent BMP implementation, TSS removal requirements and measures for the protection of water quality in the Edwards Aquifer; and
2. Seller agrees to provide certification, substantially in the form attached hereto as **Exhibit "E,"** from Seller's Engineer upon completion of construction of the Water System; and
3. The MUD agrees to reimburse Seller to the maximum extent allowed by law for Seller's costs associated with the design, engineering, permitting, construction of water quality facilities contemplated by this Section 4.2 pursuant to the funding mechanism and timetables contemplated by the Utility Construction Agreement; and

4. The MUD agrees to accept conveyance and ownership of said water quality facilities and, thereafter, to operate and maintain the same, including the implementation and enforcement of BMP implementation and TSS removal requirements on the Tract that are not the responsibility of LCRA as part of the Internal Wastewater System. The MUD acknowledges that it shall fund the continued operation and maintenance, including any repairs, replacement or modification thereof, through the assessment and collection of an Operations and Maintenance tax levied upon property located within the MUD's territory.

**Sec. 4.03. Tract Enlargement.**

- (a) The Parties agree that as the term "Tract" is defined in Section 1.23 of this Agreement and, as of the Effective Date, only those parts of the Tract identified on Exhibit "C" hereto as Phase 1, Sections 1 and 2, are covered by the Agreement. The Parties' further agree that for purposes of this Agreement, Seller shall have the right, but not the obligation, to include within the definition of the term "Tract" said portions of the Bush Ranch owned by Seller within the territorial boundaries of the MUD and contiguous to the Bush Ranch – Phase I, as that term is defined in Section 1.3 of this Agreement, thereby causing said additional acreage to become subject to both the benefits and obligations of this Agreement. Seller may include said additional acreage from time-to-time by providing LCRA and the MUD with written notice that Seller desires to include all or portions of said acreage in the Agreement, and thereafter complying with the Seller's obligations under the Agreement including provision of the Engineer's

Certifications, as applicable, generally in the form attached hereto as Exhibits "D" and "E."

- (b) The Parties further acknowledge and agree that the entirety of the Bush Ranch owned by Seller is included in and subject to the Utility Construction Agreement.

## **SECTION 5**

### **REMEDIES**

#### **Sec. 5.01. LCRA's Remedies.**

- (a) Prior to Closing on the System, or any portion thereof, if Seller fails or refuses to comply with its obligations, or if Seller's respective representations, warranties or covenants are not true or have been breached, LCRA will have the right to: (i) waive a default; or (ii) if the default is a material breach of Seller's obligations, and Seller has failed to correct such default within ninety (90) days after written notice of default, to seek specific performance of Seller's obligations, together with the recovery of all costs actually incurred by LCRA to secure such specific performance, including LCRA's reasonable Court Costs and attorney's fees.
- (b) After Closing on conveyance of the System, or any portion thereof, if Seller is in default of any material provision of this Agreement, or if LCRA determines that any of Seller's representations, warranties or covenants are not true, then following notice and opportunity to cure, LCRA may seek specific performance of Seller's obligations, together with recovery of all costs actually incurred by LCRA to secure such specific performance, including LCRA's reasonable Court Costs and attorney's fees. After Closing on conveyance of the System, or any portion thereof, LCRA shall not have the



right to terminate this Agreement nor its commitment to provide Services except that LCRA shall be allowed to terminate service to individual retail customers for the nonpayment of water bills, as applicable after thirty (30) days prior written notice, as otherwise set forth in LCRA's Tariff.

- (c) If, after a Closing, LCRA determines that any of Seller's representations, warranties or covenants contained herein which applied to, and survived the Closing, are not true, then in such limited event LCRA may seek specific performance of Seller's obligations together with the recovery of all costs actually incurred by LCRA to secure such specific performance, including LCRA's reasonable Court Costs and attorney's fees.

**Sec. 5.02. Seller's Remedies.** Notwithstanding any provision of this Agreement to the contrary, in the event LCRA fails or refuses to comply timely with LCRA's obligations hereunder, or is unable to do so as a result of LCRA's acts or failure to act, Seller shall be entitled to enforce this Agreement by specific performance, injunction, or other remedy at law for breach of contract, or in equity, in a court of competent jurisdiction; provided, however, that LCRA shall not be liable for any punitive damages. Seller shall be entitled in any actions in which it prevails to recover its actual costs of such action, including Seller's reasonable Court Costs and attorney's fees.

**Sec. 5.03. MUD's Remedies.** In addition to any other remedies expressly granted to the MUD in this Agreement, in the event of Seller's breach of any obligations to the MUD under this Agreement, the MUD shall be entitled to exercise those remedies prescribed by the Utility Construction Agreement.

**Sec. 5.04. Opportunity to Cure Default.** Except as expressly prescribed by this Agreement, before any Party may exercise any remedy given to it pursuant to this Agreement, said Party must

provide written notice to the other Party specifying that Party's default, and it must allow the other Party thirty (30) calendar days (or longer if otherwise provided by this Agreement) after receipt of the notice to cure the default.

**Sec. 5.05. Attorney Fees & Court Costs.** Should any Party prevail in an action before a court of competent jurisdiction or the Commission with respect to any breach of this Agreement, in addition to any other remedies available to said prevailing Party, the Party shall be entitled to recover its attorneys' fees and court costs, if any.

## **SECTION 6**

### **NOTICES**

**Sec. 6.01. Notices.**

- (a) All notices hereunder from either Seller or the MUD to LCRA shall be sufficient if sent by hand-delivery, facsimile transmission, or telegram, addressed to LCRA to the attention of the Executive Manager, Water and Wastewater Utility Services, at 3700 Lake Austin Boulevard, Austin, Texas 78703, fax number (512) 397-6722, with a copy to the General Counsel, LCRA, at the same address and fax number (512) 473-4010; and
- (b) All notices hereunder from either LCRA or the MUD to Seller shall be sufficiently given if sent by hand delivery, facsimile transmission, or telegram to Seller to 290 East Bush, Inc., attention Michael Schoenfeld, Vice President, 13000 Hwy. 290 W, Austin, Texas 78737, fax number (512) 394-0590, with a copy to David Hill, 2722 South Medford, Lufkin, Texas 75901/ P.O. Box 702, Lufkin, Texas 75902, and fax number (936) 639-5666; and

- (c) All notices hereunder from either Seller or LCRA to the MUD shall be sufficient if sent by hand-delivery, facsimile transmission, or telegram, addressed to the MUD to the attention of the President, Hays County Municipal Utility District No. 4, c/o the District's General Counsel, Phil Haag, at Winstead, Sechrest & Minick P.C., 401 Congress Ave., Suite 2100, Austin, Texas 78701, fax number (512) 370-2850, with a copy to the District's General Counsel, Phil Haag, at Winstead, Sechrest & Minick P.C., 401 Congress Ave., Suite 2100, Austin, Texas 78701, fax number (512) 370-2850.
- (d) All such notices given pursuant to this Section 6.1 shall be deemed to have been given on the date of receipt, if hand delivered, or the date of sending of such notice if sent by telegram or facsimile transmission, provided that any notice sent by facsimile transmission must also be provided by first-class mail. Any Party can change its address or other notice information upon five (5) days written notice to the other Party.

## **SECTION 7**

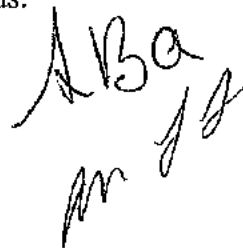
### **INDEMNITY**

**Sec. 7.01.** Except as provided in Sections 2 and 9, and Section 11.10 of this Agreement, the Parties acknowledge and agree that nothing in this Agreement shall be construed or interpreted as obligating any Party to indemnify or defend any other Party to this Agreement against any cause of action or claim asserted by any third party in an effort to enforce any judgment, settlement or other agreement between, or for the benefit of said, third party and the Party who might seek to be indemnified.

**SECTION 8**  
**ASSIGNABILITY**

**Sec. 8.01.**

- (a) Except as authorized by subsection (b) below, this Agreement shall not be assignable by any Party except with the written consent of all of the other Parties, which consent shall not be unreasonably withheld or delayed.
- (b) Notwithstanding subsection (a) hereof, Seller shall have the right, without either the MUD's or LCRA's prior written consent, upon delivery of written notice of the same to the MUD and LCRA, to assign all or a portion of Seller's interest in this Agreement to any person, partner or entity that is either owned, or partially owned by 290 East Bush Inc., DH Real Estate Investment Co., or any person or entity that has an ownership interest in or is a subsidiary of DH Real Estate Investment Co. Such notice to LCRA and the MUD shall be given at least sixty (60) days prior to the effective date of any assignment, and shall include documentation showing that the assignee has agreed to assume the responsibilities of Seller.
- (c) Notwithstanding subsection (a), either LCRA or the MUD may assign its rights under this Agreement to any successor entity authorized by State law, provided that such successor shall succeed, as appropriate, to all of the applicable rights and obligations of LCRA and/or the MUD hereunder; provided, however, that so long as there remain outstanding any tax exempt bonds, the Parties agree that any assignee shall be a political subdivision of the State authorized to issue and maintain such bonds.



**SECTION 9**  
**SELLER'S DISCLOSURES**

**Sec. 9.01. City of Dripping Springs, Texas.**

- (a) LCRA and the MUD, respectively, acknowledge that each has received, reviewed and understand, a copy of Seller's agreement with the City of Dripping Springs (the "City") dated July 25, 2002, entitled "Agreement Concerning Creation and Operation of Hays County Municipal Utility District No. 4 and Lands Within the District" (the "DS Agreement"). A copy of the DS Agreement is attached hereto as **Exhibit "G"** and incorporated herein by reference for all purposes.
- (b) Notwithstanding any other provision of this Agreement to the contrary, Seller shall have no obligation to defend, hold harmless and/or indemnify LCRA against any claim(s) brought by the City of Dripping Springs related to the DS Agreement.

**Sec. 9.02. Effect of Seller's Disclosures.** In light of Seller's disclosures to LCRA and the MUD in this Agreement including, without limitation, those express disclosures contained in this Section 9, LCRA and the MUD acknowledge their respective acceptance of the same as pre-existing conditions. Accordingly, LCRA and the MUD, each acknowledge that neither has any objections to these matters or to Seller's pursuing or following through with the same; provided, however, that LCRA reserves the right to maintain its existing Water CCN over the Tract and to acquire, own and operate the System pursuant to this Agreement.

**SECTION 10**  
**EXPANSION OF THE SYSTEM, ADDITIONAL**  
**CUSTOMERS & NON-IMPAIRMENT TO SELLER**

**Section 10.1. Ownership of the System.**

- (a) Except as otherwise provided in this Agreement, LCRA shall own all facilities, lands and interests in land comprising the System from and after the Closing(s).
- (b) LCRA may use the System, or the capacity of the System, to facilitate or provide potable treated water Services to Other Customers only in strict compliance with all requirements of this Section 10. Any service or services through the Water System by LCRA to Other Customers shall not impair water service to Seller, or the retail customers within the Tract, except as expressly provided in this Section 10.

**Section 10.2. Other Customers.**

- (a) LCRA may enter into contracts with Other Customers to supply treated potable water on a retail basis outside of the Tract, and may amend existing contracts with Other Customers to supply greater or lesser amounts of treated potable water services from the System, at any time and from time to time; provided, however, that such Services to Other Customers are in strict compliance with the requirements of this Section 10 and such contracts do not impair, as described in Section 10.4 below, Seller's ability to obtain treated potable water from the Water System pursuant to this Agreement
- (b) LCRA shall reimburse Seller or MUD for any additional capacity developed in or acquired from the System for the benefit of such Other Customers on the basis of the pro rata share of one hundred percent (100%) of the costs of the total capacity in the System that the Other Customers receive the benefit of, and not simply on the basis of actual or

incremental costs incurred to oversize, upgrade or extend some portion of the System, in order to provide service(s) to such Other Customers. For purposes of this Agreement, the "costs" referred to in this subsection (b) include not only the Seller's costs related to construction of the respective System, but the Seller's costs related to the design, engineering, permitting costs, including legal and engineering fees and the interest incurred by Seller.

- (c) All of the costs to be reimbursed by LCRA pursuant to Section 10.2(b) that are in excess of actual or incremental costs incurred by LCRA to develop the service or services to the Other Customers shall be reimbursed either to the Seller, or if the MUD will be reimbursing the Seller then to the MUD, in consideration of the value of the initial capital investment made by Seller to develop the System and the subsequent conveyance to, and acceptance of Service obligations by, the MUD. Nothing in this Agreement shall prevent the MUD from providing LCRA reimbursements to Seller in accordance with the Utility Construction Agreement.
- (d) The provision of Services to Other Customers by LCRA through the Water System shall not impose limits on land use within the Tract except as expressly provided otherwise in this Agreement.
- (e) Neither Seller nor MUD shall have any obligation under this Agreement to sell or convey any additional land to LCRA for the expansion of the System to serve Other Customers.

**Section 10.3. Extensions or Other Modifications of the System.** LCRA may at its sole expense, extend, expand, maintain, repair, improve, upgrade or otherwise modify the System from time-to-time as LCRA determines to be necessary or desirable. LCRA shall be authorized to issue

from time-to-time Bonds for any such expansion, maintenance, repair, improvement, upgrade or other modification of the System; provided, however, that neither the issuance of any such Bonds, nor the modification of the System, shall impair Seller's ability to obtain Services for the Tract without the prior written approval of Seller.

**Section 10.4. Non-impairment of Services to the Tract.**

- (a) The provision of Services to Other Customers by LCRA through the Water System shall not impair Services to, or capacity in the System available to, the Tract except as expressly provided in this Section 10.
- (b) For purposes of this Section 10, without limiting the generality of the meaning of "impair," the Parties agree that Seller's or the MUD's ability to obtain water from the Water Project will be "impaired" if water service by LCRA to Other Customers results in any reduction of costs to those Other Customers, which reduction is not also passed on pro rata to Seller, the MUD, and/or the Retail Customers within the Tract, as applicable.
- (c) For purposes of this Section 10, without limiting the generality of the meaning of "impair," the Parties agree that Seller's or the MUD's ability to obtain water from the Water Project will be "impaired" if LCRA incurs costs for any action to extend or modify the System that are passed onto Seller, the MUD or Retail Customers within the Tract, except for costs that will be borne in a just and reasonable manner by all customers of the Bee Cave South District of LCRA's West Travis County Regional System. LCRA shall be solely responsible, at no cost or impairment to Seller, the MUD or Retail Customers within the Tract except as may be borne in a just and reasonable manner by all customers of the Bee Cave South District of LCRA's West Travis County Regional System, (i) to



acquire any new or amended approvals, licenses, permits or other regulatory authorizations necessary to serve the Other Customers; ii) to upgrade, expand, improve or modify the System (but not other portions of the LCRA System) for the purpose of facilitating LCRA's ability to provide service to Other Customers; and (iii) to acquire any and all land outside the Tract.

- (d) For purposes of this Section 10, without limiting the generality of the meaning of "impair," the Parties agree that Seller's or the MUD's ability to obtain water from the Water Project will be "impaired" if LCRA uses the System to serve Other customers and LCRA fails to reimburse the MUD on the basis of the pro rata share of one hundred percent (100%) of the costs of the total capacity in the System that the Other Customers receive the benefit of (and not simply on the basis of actual or incremental costs incurred to oversize, upgrade or extend some portion of the System in order to provide service(s) to such Other Customers). For purposes of this Agreement, the "costs" referred to in this subsection (c) include not only the Seller's costs related to construction of the System, but the Seller's costs related to the design, engineering, and permitting costs, including legal and engineering fees and the interest incurred by Seller.
- (e) LCRA may impair Services to, or capacity in the System available to the Tract in the event of a temporary reduction in Services related to construction or repair of water utility extensions or improvements to serve Other Customers. In the event of any such temporary reduction in Services, LCRA shall provide notice to the MUD at a time reasonably in advance of the temporary reduction in Services. LCRA agrees to use

reasonable efforts to minimize the impairment of or reduction in Services to the Tract during the temporary construction or repair work.

- (f) Seller acknowledges and agrees that the provisions of this Section 10 shall not apply to any temporary reductions in, or loss of, or similar impairment of service to Seller, the MUD or Retail Customers within the Tract that also affects other customers of the LCRA West Travis County Regional System and is due to any reason other than LCRA's expansion, extension or modification of the System.
- (g) The Parties agree that the purpose of this Section 10.4 is to ensure that the Other Customers receive no unjust enrichment and/or benefit at the expense of Seller, the MUD or the Retail Customers within the Tract. The Parties further agree that any interpretation of the terms and/or provisions of this Agreement on the issue of "non-impairment" shall be in favor of ensuring that the MUD is reimbursed and/or compensated, pro rata, for its capital investment in the System that benefits LCRA's Other Customers.

## **SECTION 11**

### **MISCELLANEOUS PROVISIONS**

**Sec. 11.1.** This Agreement, together with all referred Exhibits, may be simultaneously executed in any number of counterparts and all of said counterparts executed and delivered, each as an original, shall constitute but one and the same instruments.

**Sec. 11.2.** This Agreement shall be governed by the Constitution and laws of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

**Sec. 11.3.** All of the respective covenants, undertakings, and obligations of each of the Parties set forth in this Agreement shall bind, and shall be and become the respective covenants and obligations of that Party and, to the extent permitted by law and the existing contracts of the applicable Party and the terms and conditions of this Agreement shall apply to and bind:

- (a) All mortgagees, trustees, and secured parties under all present and future mortgages, indentures, and deeds of trust, security agreements which are or may become a lien upon the Tract or any of the property to be conveyed to LCRA pursuant to this Agreement.
- (b) All receivers, permitted assignees, bankruptcy judges or trustees of, or having control over any Party; and
- (c) All successors or assigns, or other persons, firms, partnerships, corporations, or entities claiming by through or under any Party, but not otherwise.

**Sec. 11.4.** The Parties make the following representations:

- (a) LCRA represents that it is an “authorized water district” as that term is used in Section 54.2351, Texas Water Code; and
- (b) The MUD represents that it is a “district” as that term is used in Section 54.2351, Texas Water Code; and
- (c) The Seller represents that all contracts entered into for the construction of the System were done pursuant to a public bid process consistent with that required to be followed by water districts under state law.

**Sec. 11.5.** The captions and headings appearing in this Agreement are inserted merely to facilitate reference, and shall have no bearing upon the interpretation thereof.

**Sec. 11.6.** Except to the extent otherwise provided in this Agreement, each term, covenant, and condition of this Agreement is deemed to be an independent term, covenant, and condition, and the obligation of any Party to perform all of the terms, covenants, and conditions to be kept and performed by it and is not dependent on its performance by the other Party of any or all of the terms, covenants, and conditions to be kept and performed by them.

**Sec. 11.7.** In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, the remainder of such Agreement, and the application of its terms, covenants or conditions to the persons or circumstances shall not be affected thereby; provided, however that the finding of invalidity and/or unenforceability of such terms, covenants or conditions does not frustrate the intended purposes of the party affected by such finding. In the event one, or all, of the Parties reasonably determines that such finding materially frustrates their intended purposes, such Party shall, in their sole discretion, be entitled unilaterally to terminate this Agreement by providing notice of termination to the other Party pursuant to Section 6.1; provided, however, that such termination shall not relieve LCRA of its duty and obligation to provide Services within its certified service area or as otherwise prescribed by law.

**Sec. 11.8.** Any waiver, at any time, by any Party of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

**Sec. 11.9.** In the event that any Party, or combination of Parties, is rendered unable, wholly or in part, to perform any of its obligations under this Agreement for reasons wholly beyond the

control of the Party or Parties rendered unable to perform, including by way of the example, by reason of failure or national moratorium of operation of the banks, transfer agents, brokers, stock exchanges or modes of transportation; or work stoppages or restraint by court order or other public authority; or action or inaction concerning governmental or regulatory authorizations; or transportation delay; or death or personal injury of a representative of any Party hereto whose signature is necessary, upon the provision of written notice which fully relates the particulars of the claimed force majeure, including but not limited to the dates on which it commenced and ceased, or is expected to cease, by the Party(s) claiming force majeure to the other Party(s) as soon as is reasonably practicable after the occurrence of the cause relied upon, the obligations of the Party claiming force majeure, to the extent they are affected by the force majeure, shall be suspended during the continuance of any inability of performance so caused, but in no event for longer than one-hundred eighty (180) days. This Agreement shall not be terminated by reason of any such cause, but shall remain in full force and effect. The Party or Parties rendered unable to fulfill any of its obligations under this Agreement by reason of force majeure shall exercise the utmost diligence to remove such inability. The suspension of obligations of a Party or Parties to this Agreement pursuant to this Section shall be added to the time specified in other provisions of this Agreement for the purpose of calculating the date on which certain conditions of this Agreement are to be satisfied when such satisfaction is affected by the intervention of the circumstance causing the force majeure, but in no event shall such additional time extend the satisfaction of an obligation under this Agreement more than one-hundred eighty (180) days. Provided, however, that in the event the affected Party, or the Parties, are defending or prosecuting litigation, including an administrative regulatory proceeding if applicable, in

response to a challenge by a third-party which constitutes an event of force majeure pursuant to this Section 11.9, and the Party or the Parties prevail in such action, then this Agreement shall remain in full force and effect and the time for performance of the respective Parties' obligation(s) to perform pursuant to this Agreement shall be extended until such force majeure is terminated and the limitation of the extension of time to 180 days as provided herein shall have no force or effect under such circumstances.

**Sec. 11.10.** Notwithstanding anything in this Agreement to the contrary, including by way of example only the indemnity provisions in Sections 2, 7 and 9, except for claims accruing prior to the date of Seller's conveyance of the System, or any applicable portion thereof, to LCRA, Seller shall not be responsible nor liable for any damages, judgment or awards, and shall not be required to, or be liable for, defending LCRA, or holding LCRA harmless from any such claims accruing after Seller has conveyed the System, or any applicable portion thereof, to LCRA. Post-conveyance LCRA agrees to rely solely upon the bonds, warranties, and guarantees accompanying the conveyance of the System, or any applicable portion thereof.

**Sec. 11.11.** This Agreement may be amended or modified only by written agreement duly authorized by the governing bodies of each of the respective Parties, and executed by the duly authorized representative of each.

**Sec. 11.12.** Each Party agrees to execute and deliver all such other and further instruments, and to undertake such actions as are, or may become, necessary or convenient to effectuate the purposes and intent of this Agreement. By way of example only, and without limiting the generality of the intent of this subsection, in the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be

determined to be inadequate, insufficient, or otherwise defective for purposes of securing the issuance of the bonds contemplated to be issued by the MUD pursuant to Section 54.2351, Texas Water Code, for purposes of reimbursing Seller's costs to the maximum extent allowed by law, then in such event the Parties agree to amend this Agreement, or to enter into such other or additional agreements, as may be required by state law to facilitate the issuance of said bonds and the implementation of the Parties' intent in entering into this Agreement.

**Sec. 11.13.** All obligations of the Parties created hereunder are performable in Hays County, Texas, and venue for any action arising hereunder shall be in Hays County.

**Sec. 11.14.** Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto, any rights, benefits, or remedies under or by reason of this Agreement.

**Sec. 11.15.** Unless otherwise expressly provided, the representations, warranties, covenants, indemnities, and other agreements contained herein shall be deemed to be material and continuing, shall not be merged, and shall survive any Closing hereunder and the conveyance and transfer of the System, or any portion thereof.

**Sec. 11.16.** Until the Closing Date, all taxes, if any, on the System, or any portion thereof, or on the acquisition, construction, or use thereof shall be paid by the Seller. Seller further agrees to indemnify and hold harmless LCRA and the MUD against any and all such taxes. LCRA and the MUD shall cooperate in the obtaining of any available exemptions from any such taxes. Following Closing(s), LCRA shall be solely responsible for all applicable taxes and obtaining applicable exemptions there from.

**Sec. 11.17.** This Agreement is entered into by and for the exclusive benefit of the Parties and their respective authorized successors and assigns. Nothing in this Agreement is intended, nor shall it be construed, as providing any rights, privileges or other benefits to any third-party not expressly set forth in this Agreement. Accordingly, any claim or assertion of any right pursuant to this Agreement by a third-party shall be without merit and wholly unenforceable.

**Sec. 11.18.(a)** The terms and provisions of this Agreement, including the Exhibits identified in this Section 11.18, contain the entire agreement between the Parties with respect to the System and shall supersede all previous communications, representations, or agreement, either verbal or written, between the Parties with respect to such matters.

**(b)** The following Exhibits are part of this Agreement:

Exhibit "A" – Letter of Intent dated June 29, 2006, between LCRA and Seller

Exhibit "B" – Utility Construction Agreement dated July 22, 2005, between the MUD and Seller

Exhibit "C" – Plat of Bush Ranch – Phase I (Village at Ledgestone)

Exhibit "D" – Engineer's Design Certification

Exhibit "E" – Engineer's Certification of Acceptance & Completion

Exhibit "F" – Agreed Cost Estimates

Exhibit "G" – DS Agreement

**Sec. 11.19.** Wherever this Agreement requires a consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld, delayed, or denied.

**Sec. 11.20.** The Parties acknowledge and agree that this Agreement was approved by a majority of the respective governing bodies of LCRA and the MUD during duly noticed, public and open

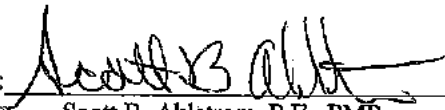


meetings as prescribed by Section 54.2351, Texas Water Code, and other applicable laws of the State.


**Sec. 11.21.** In recognition of LCRA's continuing obligations under CCN No. 11670 to provide service to the Tract, the Parties agree that this Agreement shall terminate, automatically and --without action by any Party, thirty (30) days following the date on which the MUD makes the final payment for any bonds issued by the MUD relating to the Water System.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be signed, sealed and attested in duplicate by their duly authorized officers, to be effective this the 19th day of October, 2006.

**LOWER COLORADO RIVER AUTHORITY**

By:   
Scott B. Ahlstrom, P.E., PMP  
Manager, Water & Wastewater  
Utility Services, LCRA

Approved as to form:

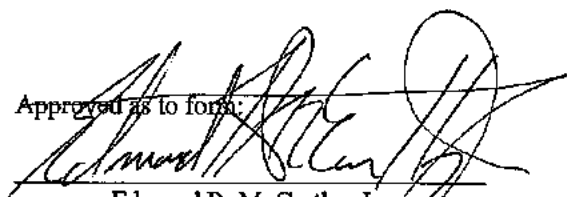
  
Madison Jechow  
Associate General Counsel  
Counsel for LCRA



**290 East Bush, Inc.**  
a Texas corporation

By:   
Michael Schoenfeld, Vice President

Approved as to form:

  
Edmond R. McCarthy, Jr.  
Jackson, Sjoberg, McCarthy & Wilson L.L.P  
Counsel for 290 East Bush, Inc.

Hays County Municipal Utility District No. 4

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

*Virginia Greenaway* President

Approved as to form:

*Phil Haag*

Phil Haag

Winstead, Sechrest & Minick L.L.P.

Counsel for Hays County Municipal Utility District No. 4

**EXHIBIT "A"**

**Letter of Intent dated June 29, 2006, between LCRA and Seller**



June 29 , 2006

Mike Schoenfeld, Vice President  
DH Investment Company  
13000 Highway 290 W  
Austin, TX 78737

Re: Water service to +/- 117 acre Ledge Stone development in Hays County and within  
LCRA's Water CCN (formerly Hill Country Water Supply Corporation's CCN)

Dear Mr. Schoenfeld:

This letter is to confirm our discussions regarding proposed agreement terms for utility facilities and a water and wastewater service agreement between the developers of Ledge Stone (290 East Bush, Inc.) in northern Hays County and LCRA. Based on our discussions, we propose to enter into agreements that, in addition to LCRA's providing water service within its CCN to Ledge Stone, will also include provisions pertaining to LCRA providing wastewater service to the subject property. In addition to various other provisions, the proposed agreements will contain the following terms:

- 290 East Bush, Inc. will construct water and wastewater utility facilities necessary to serve Ledge Stone;
- LCRA will review and approve design for the facilities and, in addition to water utility facilities, will have the right to inspect construction of wastewater utility facilities and water quality protection measures within Ledge Stone; terms for design and construction of the utility facilities will be substantially similar to those for design and construction (including terms for bonds) contained in that certain "Cost Sharing and Reimbursement Agreement for Phase II of the Sawyer Ranch Road Pipeline," dated on or about January 5, 2005, between LCRA and various parties; in addition, 290 East Bush, Inc., will provide for its construction contractor to carry general liability insurance that names LCRA as an additional insured, as well as workers' compensation insurance on terms generally applicable to water districts in Texas;
- 290 East Bush, Inc. will commit to LCRA by contract to develop the property in accordance with the Texas Commission on Environmental Quality's Optional Enhanced Measures pertaining to stream buffers, permanent BMP implementation, TSS removal requirements and measures to protect stream morphology for the Protection of Water Quality in the Edwards Aquifer;
- 290 East Bush, Inc. will provide certification, in the form attached to this letter as "Exhibit A," relating to these measures from a practicing Professional Engineer registered in the State of Texas and approved by both LCRA and 290 East Bush,

Inc., prior to any meters being set for non-construction water use; LCRA acknowledges that Felix Manka, P.E., currently provides engineering services for 290 East Bush, Inc., and hereby approves of 290 East Bush, Inc.'s designation of Manka as the engineer to provide the certifications required in this letter;

- 290 East Bush, Inc. also will provide certification, in the form attached to this letter as "Exhibit B," relating to the Optional Enhanced Measures referenced above from a practicing Professional Engineer registered in the State of Texas and approved by both LCRA and 290 East Bush, Inc., upon completion of construction of the project. This certification will provide reference to publicly filed construction plans, plats, deed restrictions and/or restrictive covenants that incorporate physical elements that are consistent with these measures. In addition, Developer will provide a maintenance plan for on-going maintenance of the water quality protection facilities built consistent with the Optional Enhanced Measures and will provide reference to publicly filed construction plans, plats, deed restrictions and/or restrictive covenants that relate to maintenance of water quality protection facilities consistent with these measures;
- The agreements will include remedies for LCRA to enforce against 290 East Bush, Inc., or any of its successors or assigns, the technical requirements of the Optional Enhanced Measures included in this letter, which remedies shall be limited to:
  - specific performance of 290 East Bush, Inc.'s obligations, and
  - LCRA's attorney fees and costs of litigation to enforce the contractual obligations.
  - LCRA shall have no right to seek or recover any consequential damages, and LCRA shall have no right to seek or recover attorney fees or costs of litigation for proceedings other than to enforce the contractual obligations of 290 East Bush, Inc., against 290 East Bush, Inc., or any of its successors or assigns.
- LCRA acknowledges that 290 East Bush, Inc. will finance the utility facilities through issuance of bonds by a water district but subject to a utility services contract with LCRA consistent with Texas Water Code section 54.2351;
- 290 East Bush, Inc. will dedicate the utility facilities to LCRA following completion, subject to LCRA's commitment to provide utility services for the property, consistent with Texas Water Code section 54.2351;
- LCRA will own and operate the water and wastewater facilities, and provide retail water and wastewater service to Ledge Stone residents; and

Mike Schoenfeld

June 29, 2006

Page 3

- LCRA acknowledges that 290 East Bush, Inc.'s maintenance obligations related to the water quality facilities may be transferred to a district authorized to perform such functions.

If you agree to these terms, sign a copy of this letter in the space provided below and return it to me. Following execution by both parties, this letter shall serve as a memorandum of understanding, and the parties agree that they shall negotiate in good faith toward agreements that contain the terms outlined in this letter. Final agreements shall require approval by the governing bodies for 290 East Bush, Inc. and LCRA; approval also may be necessary from any water district that issues bonds to finance utility facilities to serve the property.

Please don't hesitate to contact me if you would like to discuss this matter further.

Sincerely,

*Janet Stephenson*

Janet Stephenson  
West Travis County Regional Manager

Cc: Madison Jechow  
Edmond McCarthy  
Tom Hegemier



AGREED AND ACCEPTED:

290 East Bush, Inc.

By: Michael L. Schoenfeld

Name: Michael L. Schoenfeld

Title: Vice President

Date: 06/30/06

**"EXHIBIT A"**

**ENGINEER'S CERTIFICATION**

The undersigned person, a professional engineer licensed with the State of Texas, hereby certifies to the following:

1. I am generally familiar with the Bush Ranch Phase I subdivision (the "Subdivision"), commonly known as "Ledge Stone," which is a master planned development in Hays County, Texas, formerly known as Bush Ranch.
2. I am familiar with the Texas Commission on Environmental Quality's Edwards Aquifer Protection Program and, specifically, "Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer" published as an Appendix to the TCEQ's Regulatory Guidance Document RG-348 (February 14, 2005) approved by the United States Fish and Wildlife Service as an alternative to a no "take" determination under the Endangered Species Act (the "Edwards Rules"). Copies of both the Edwards Rules and USFWS letter dated February 14, 2005, are attached hereto as Exhibits "A" and "B," respectively, and incorporated herein by reference for all purposes.
3. In addition to conducting site visits of the Subdivision, I have reviewed the following plans and plats for the Subdivision:
  - (a) Subdivision Plat of Bush Ranch Phase 1;
  - (b) Construction Plans for Bush Ranch Subdivision Phase 1, Section 1;
  - (c) Construction Plans for Bush Ranch Subdivision Phase 1, Section 2;
4. It is my opinion, as a professional engineer, that if the facilities contemplated by the above-referenced subdivision plans and plats are constructed and/or installed as contemplated, the Subdivision will be in substantial compliance with the Edwards Rules described in paragraph 2., above, that pertain to stream buffers, permanent BMP implementation, TSS removal requirements, and measures to protect stream morphology. Furthermore, the plans, plats, deed restrictions and/or restrictive covenants for the Subdivision incorporate physical elements, such as stream buffers and permanent best management practices for the Subdivision, that are reasonably consistent with the Edwards Rules.

---

Signature

---

Printed Name

\_\_\_\_\_  
Date

(Seal)

\_\_\_\_\_  
Texas Registration Number

**EXHIBITS**

**Exhibit**

**Description**

"A"

Edwards Rules

"B"

USFWS Letter

"C"

Subdivision Plat of Bush Ranch Phase 1

"D"

Construction Plans for Bush Ranch

Subdivision Phase 1, Section 1

"E"

Construction Plans for Bush Ranch

Subdivision Phase 1, Section 2



**"EXHIBIT B"**

**ENGINEER'S CERTIFICATION**

The undersigned person, a professional engineer licensed with the State of Texas, hereby certifies to the following:

1. I am generally familiar with the Bush Ranch Phase I subdivision (the "Subdivision"), commonly known as "Ledge Stone," which is a master planned development in Hays County, Texas, formerly known as Bush Ranch.
2. I am familiar with the Texas Commission on Environmental Quality's Edwards Aquifer Protection Program and, specifically, "Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer" published as an Appendix to the TCEQ's Regulatory Guidance Document RG-348 (February 14, 2005) approved by the United States Fish and Wildlife Service as an alternative to a no "take" determination under the Endangered Species Act (the "Edwards Rules"). Copies of both the Edwards Rules and USFWS letter dated February 14, 2005, are attached hereto as Exhibits "A" and "B," respectively, and incorporated herein by reference for all purposes.
3. In addition to conducting site visits of the Subdivision and having reviewed the plans and plats for the Subdivision, I have inspected the completed facilities:  
\_\_\_\_\_
4. Construction plans and plats for the Subdivision are filed as public records as follows:  
\_\_\_\_\_
5. It is my opinion, as a professional engineer, that the facilities were constructed as contemplated by the above-referenced Subdivision plans and plats and, accordingly, the Subdivision is in substantial compliance with the Edwards Rules described in paragraph 2., above that pertain to stream buffers, permanent BMP implementation, TSS removal requirements, and measures to protect stream morphology. Furthermore, the plans, plats, deed restrictions and/or restrictive covenants for the Subdivision incorporate physical elements, such as stream buffers and permanent best management practices for the Subdivision, that are reasonably consistent with the Edwards Rules.

\_\_\_\_\_  
Signature

Printed Name

Date

(Seal)

Texas Registration Number

**EXHIBIT "B"**

**Utility Construction Agreement dated July 22, 2005,  
between the MUD and Seller**

UTILITY CONSTRUCTION AGREEMENT  
BETWEEN  
HAYS COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 4 AND  
194 BUSH, LTD.

THE STATE OF TEXAS           §  
COUNTY OF HAYS           §

This "Utility Construction Agreement Between Hays County Municipal Utility District No. 4 and 194 Bush, Ltd." (the "Agreement") is made and entered into on the date set forth below by and between HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4, a body politic and corporate and a governmental agency of the State of Texas, organized pursuant to the provisions of Article XVI, Section 59 of the Texas Constitution (hereinafter referred to as the "District") and 194 Bush, Ltd., a Texas limited partnership (hereinafter referred to as the "Developer").

RECITALS

WHEREAS, the District was created, was organized and exists for the purposes, inter alia, of furnishing water, wastewater, storm sewer and drainage facilities and services to areas within and outside its boundaries; and

WHEREAS, in furtherance of such purpose, the District desires that the project more fully described in Article I, Section I hereof (the "Project") be constructed; and

WHEREAS, the Developer, as the owner of land to be benefited by the Project, desires to proceed with the construction of the Project without delay, and is willing to finance the cost of such construction based upon the understanding that, at such time as the District is able to sell its bonds using its best efforts for the purpose of reimbursing the Developer for the costs of the Project (the "Bonds"), the District, upon funding of such sale, will acquire the Project at the Developer's cost plus carrying charges, as determined by the terms and conditions of this Agreement and pursuant to the Rules of the Texas Commission on Environmental Quality (the "Commission"); and

WHEREAS, the Board of Directors of the District is cognizant of the advantages of proceeding with the construction of the Project prior to the sale of the Bonds, to wit: (1) interim growth in the District is expected to make the Bonds more marketable; (2) incremental increases in the District's tax base will enable the District to more easily cope with the resulting debt; and (3) in view of escalating construction costs, the District may save a substantial amount of money by authorizing the award of the construction contracts now rather than waiting until the Bonds are sold; and

WHEREAS, the Developer is willing to proceed with construction of the Project and is willing to advance all costs incurred in connection therewith and assume all risks of any delay or failure to obtain the approval of the Commission for the Project and Bonds; and

WHEREAS, the District is willing to proceed with construction of the Project, provided that the Developer advances all costs and assumes all risk of any delay or failure to obtain the approval of the Commission for the Project and Bonds; and

WHEREAS, until such time as the District has a tax base sufficient to pay its operating expenses through the revenues of an operations and maintenance tax, the Developer has agreed to advance sums necessary to pay the District's operating expenses in accordance with the terms of this Agreement, and the parties wish to document such agreement in writing;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the District and the Developer hereby contract and agree as follows:

## ARTICLE I

### Operations Advances

Section 1. Operation Expenses. The District may request the advancement of funds for District operations under this Agreement until such time as the District establishes an operations and maintenance tax and taxable value within the District is sufficient to generate tax revenues adequate to pay the District's budgeted operations and maintenance expenses. The Developer will have no obligation to advance more than \$50,000 for District operations in any calendar year under this Agreement.

Section 2. Applications for Payment. The District may from time to time, submit written requests for payment of expenses under this Agreement to the Developer at the address indicated on the signature page of this Agreement. Each application will be accompanied by copies of invoices or other documentation establishing the purposes for which funding is being requested. Provided that the sums requested are in accordance with the terms of this Agreement, the Developer agrees to fund the sums covered by the District's applications within 15 days of the District's delivery of each request.

Section 3. Reimbursement for Advances. The District and the Developer acknowledge that all reimbursement to the Developer for advances for operation and maintenance are subject to the approval of the Commission. Advances will be reimbursed to the Developer out of future bond proceeds, taxes, or other funding sources available to the District, to the extent authorized by the Commission. To the extent any advances are not approved by the Commission for reimbursement, they will be deemed to be developer contributions to the District's operations. No individual director of the District will have any personal liability for the repayment of any sums advanced to the District by the Developer.

Section 4. No Offset. The obligation of the Developer to advance funds under this Agreement will not be subject to offset, counterclaim, termination, or revision unless mutually agreed to in writing by the parties.

## ARTICLE II

### Construction of the Project

**Section 1. The Project.** The Project shall consist of the water, wastewater, storm sewer and drainage facilities described in Exhibit "A", attached hereto and incorporated herein by reference. The Project shall also include all costs for expenses of the District as itemized in §49.155, Texas Water Code, as amended, to the extent such costs are reimbursable under the rules and regulations of the Commission.

**Section 2. Design of the Project.** All physical facilities to be constructed or acquired as a part of the Project shall be designed and prepared by the Developer's engineers ("Developer's Engineers"). Prior to executing any contract for the construction of any part of the Project, the Developer shall obtain the approval of the plans and specifications for the Project from the District, from the City of Dripping Springs and from all other governmental agencies having regulatory authority over the Project. Copies of the approved plans and specifications for the Project shall be filed with the District, the City of Dripping Springs and the Commission.

### **Section 3. Construction and Acquisition of Project.**

(a) The Project shall be constructed and all easements, equipment, materials and supplies required in connection therewith shall be acquired in the name of the Developer. All contracts for the construction of the Project shall contain provisions in a form satisfactory to the District, to the effect that any contractor, materialman or other party thereto shall look solely to the Developer for payment of all sums coming due thereunder and that the District shall have no obligation whatsoever to any such party.

(b) All bids for the Project shall be advertised and all construction contracts for the Project shall be awarded in the manner provided by law applicable to municipal utility districts and in full compliance with the rules and regulations of the Commission and all other requirements necessary to make the Project eligible for purchase by the District.

(c) The Board of Directors of the District shall review all bids received for the construction of the Project and shall approve the award of all construction contracts prior to the execution of the contracts by the Developer.

(d) The Developer's Engineers: (1) shall serve as Project Engineer for the Project; (2) shall make recommendations to and advise the Board of Directors of the District upon the award of construction contracts; (3) shall make monthly reports to the Board on the progress of construction; (4) shall approve all pay estimates submitted and shall certify them as correct; and (5) shall periodically inspect the Project during the construction thereof. No changes to the plans and specifications for, or change orders to, the construction contracts shall be made without the prior approval of the District. The Developer shall cooperate with the District's Engineers and shall keep the District's Engineers fully advised of the status of the construction of the Project.

(e) The Developer shall keep ledgers or accounts and shall make monthly reports on the monies paid to contractors for the Project and shall maintain accounts in such a manner to separately reflect payments subject to the Developer's thirty percent (30%) contribution as

required by the "Developer Contribution Rule" of the Commission, 30 TAC §293.47, and for payments which are not subject to such Rule. The Developer's carrying charges shall be calculated based upon these separate accounts rather than upon a combined total construction cost.

(f) The Project shall be constructed in dedicated public rights-of-way or utility easements or in easements or lands specifically reserved by the Developer. The Developer shall provide all necessary easements, rights-of-way for the Project at no cost to the District. To the extent authorized by the Commission, the District shall reimburse the Developer for the price paid by the Developer plus actual taxes and interest paid as of the date of the acquisition of the land for plant sites. The land to be served by the Project shall be subdivided and the plats thereof shall be approved by the appropriate parties and properly filed of record in the plat records of Hays County, Texas.

(g) The Project shall be constructed in a good and workmanlike manner and all material used in such construction shall be free from defects and fit for their intended purpose.

(h) Upon completion of construction, the Developer shall provide the District with final, "as-built" drawings of the Project approved by the District's Engineers.

(i) Upon completion of construction, the District shall be provided with a certificate of completion from the Developer's Engineers certifying that the construction of the Project has been completed in accordance with the plans and specifications approved by the District.

**Section 4. Cost of Project to be Funded by Developer.** The Developer shall promptly pay all costs of the Project as the same become due, including, without limitation, all costs of design, engineering, materials, labor, construction, and inspection arising in connection with the Project; all payments arising under any contracts entered into for the construction of the Project; all costs incurred in connection with obtaining governmental approvals, certificates, permits, easements, rights-of-way, or sites required as a part of the Project; and all out-of-pocket expenses incurred in connection with the Project. The District shall not be liable to any contractor, engineer, attorney, materialman or other party employed or contracted with in connection with the Project, but shall only be obligated to reimburse the Developer in the manner and to the extent provided in Article II of this Agreement.

**Section 5. Reimbursement for Other Advances.** In addition to the costs of the Project, the District and the Developer acknowledge and agree that the Developer will advance, and the District will reimburse out of future Bond proceeds, organization, administrative, and operational fees and expenses related to the District, as well as other costs described in Section 49.155 of the Texas Water Code, as amended, including, but not limited to federal stormwater permitting costs and costs associated with requirements for endangered species permits (collectively, "Advances"). The District agrees to reimburse the Developer for the Advances to the maximum extent permitted by the Commission.

**Section 6. Indemnity.** The Developer shall indemnify and hold the District harmless from and against all losses, costs, damages, expenses and liabilities (herein collectively referred to as "Losses") of whatsoever nature, including, but not limited to, attorneys' fees, costs of litigation, court costs, amounts paid in settlement and amounts paid to discharge judgments

relating to any claim, lawsuit, cause of action, or other legal action or proceeding brought against the District or to which the District may be a party, even if groundless, false or fraudulent, directly or indirectly resulting from, arising out of or relating to the acquisition, purchase, or construction of the Project. In the event of any action brought against the District in which indemnification by the Developer hereunder is applicable, the District shall promptly give written notice thereof to the Developer, and the Developer shall forthwith assume the investigation and defense of such action, including the employment of counsel and the payment of all expenses related thereto. The District shall have the right, at its expense, to employ separate counsel and to participate in the investigation and defense of any such action. The Developer shall not be liable for the settlement of any such action made by the District without the consent of the Developer; provided, however, that in the event of any settlement entered into with the consent of the Developer or of any final judgment for a plaintiff in any such action, the Developer shall indemnify and hold the District harmless from and against any losses incurred by reason of such settlement or judgment. The expiration of the term of this Agreement shall not relieve the Developer from any liability hereunder arising prior to the expiration hereof.

### ARTICLE III

#### Reimbursement for Funds Advanced

**Section 1. Time and Amount of Reimbursement.** Within thirty (30) days of the District's receipt of the proceeds of the sale of Bonds to finance the acquisition or construction of the Project, the District shall reimburse the Developer for those Project costs which have been advanced by the Developer pursuant to Article I, Section 4 and have been approved for reimbursement by the Commission, including any amounts advanced by the Developer for the purpose of oversizing any facilities in order to serve areas within the District owned by persons or entities other than the Developer, together with interest thereon to be calculated in accordance with Commission rules from the respective dates of advancement of such funds to the date of reimbursement at an annual interest rate equal to the net effective interest rate on such Bonds or the borrowing rate of the Developer on the Project, whichever is less. The "costs of the Developer", as used herein, shall include seventy percent (70%) of the construction contract amounts attributable to those portions of the Project for which the Developer is required to make a thirty percent (30%) contribution pursuant to 30 TAC §293.47 of the Commission rules, and shall include all costs expended by the Developer on other portions of the Project not subject to such Rule. At its option and expense, the District may have conducted an independent audit of the construction contracts and other items entering into the sales price of the Project. The cost of each construction contract shall be based on the unit price contract amount approved by the District, or the individual low bid thereof if the contract amount has not been approved by the District, as such amount is adjusted by final measurement of the work, authorized change orders, and/or revisions. The price determined by the audit shall be binding on the parties hereto, except as may be otherwise required or directed by the Commission. To the extent the District is eligible for a waiver from or is exempt from, the requirement that the Developer make a 30% contribution under Commission rules, the District agrees to execute all documents and take all actions necessary to obtain such waiver or exemption.

**Section 2. Conditions to Reimbursement.** The District's obligation to issue the Bonds and to reimburse the Developer for funds advanced for the Project shall be subject to the following terms and conditions:



- (a) Approval by the District and the Commission of the Project and of all items of cost proposed for reimbursement;
- (b) Approval by the Commission and the City of Dripping Springs of the issuance and sale of the Bonds;
- (c) Recommendation of the District's financial advisor and determination by the District, that the sale of the Bonds is feasible and prudent, is within the guidelines of the Commission and will not cause the District's tax rate to become excessive;
- (d) Receipt of a bona fide bid for, and awarding of sale of, the Bonds;
- (e) Approval of the Bonds by the Attorney General of the State of Texas; and
- (f) Registration of the Bonds by the Comptroller of Public Accounts of the State of Texas.

**Section 3. Marketing the Bonds.** The Bonds shall be offered in the manner and at the time or times advised by the District's financial advisor on terms and conditions generally accepted in the water district bond market. The District shall issue and sell a sufficient amount of the Bonds to pay the full purchase price of the Project; provided, however, that the District reserves the right to issue and sell less than all of the Bonds authorized on any offering if a portion of the proceeds of the sale would not be immediately necessary for acquisition of a part of the Project on which construction has not been completed. The District shall not be obligated to sell or issue any amount of the Bonds in excess of the amount or at an interest rate in excess of that then recommended by the District's financial advisor. The District shall not be obligated to offer the Bonds in contravention of any law of the State of Texas with respect to the sale of bonds by the District; or any rule or regulation of the Commission or other agency with jurisdiction. The District shall use its best efforts to sell the Bonds, but shall not be considered to have guaranteed the sale thereof.

**Section 4. Priority of Reimbursement.** If the District has obligations to reimburse other developers for organizational costs or for construction costs related to other projects at the time of sale of its bonds becomes feasible, the District will reimburse these costs based upon priority determined by the date of the Board's approval of the final pay estimate for each project and the date of each Advance. The District's agreement to reimburse the Developer under this Agreement will not limit the right of the Board to utilize bond funds to finance any District project, and this right is expressly reserved by the District.

**Section 5. Time of Issuance of Bonds.** The District agrees to cooperate with the Developer to allow the Bonds to be issued at a time and in a manner that will result in the developer 30% contribution requirement of 30 Texas Administrative Code §293.47 not being applicable to the District. The District further agrees, provided that it is eligible to do so, to request, as a part of each bond application, a conditional waiver of such rule pursuant to 30 Texas Administrative Code §293.47(c). Subject to the terms and conditions of this Agreement, the District will request, at the earliest practicable time, and will use reasonable efforts to obtain the expedited reviews and approval of the Project and Bonds by the Commission and upon receipt of Commission approval, will proceed with the issuance and sale of the Bonds.

**Section 6. Taxation: Cooperation.** The Developer agrees to execute and deliver a waiver of special appraisal prior to the District's submission of any application for the approval of the Project and Bonds. The Developer will cooperate with the District in preparing any necessary applications or other documents necessary in connection with the Bonds, and will provide all information requested by the District or its consultants.

#### ARTICLE IV

##### Acquisition of Project

**Section 1. Acquisition of Project.** At the time of reimbursement of the Developer, the District will acquire the Project from the Developer pursuant to the terms and conditions of this Agreement.

**Section 2. Conveyance.** The Developer shall convey the Project to the District by general warranty deed or other appropriate instrument of conveyance, with full warranties, free and clear of all liens, claims, encumbrances, options, charges, assessments, restrictions, limitations or reservations, including liens for ad valorem taxes for past and current years, and payments due to construction contractors, laborers, or materialmen. The Developer shall provide such proof of title and proof of no liens, claims or encumbrances as the District may reasonably require. For real property, Developer shall provide the District an Owner's Policy of Title Insurance written by a title company satisfactory to the District in the amount of the price paid by the District for the realty. The policy shall show no liens, easements, restrictions, or encumbrances, or any other exceptions except such as do not in the reasonable judgment of the District materially affect the intended use and enjoyment of the realty by the District. Each conveyance shall include all easements within which the water, wastewater and drainage systems of the District are located, unless such easements have been dedicated to the public, and all easements necessary to own, operate and maintain the Project. Each conveyance shall additionally include fee simple title to any and all plant sites, together with necessary rights of way thereto where such site or sites are not directly accessible by a dedicated public street, and all licenses, franchises and permits necessary for the operation and maintenance of the Project. The Developer shall also assign, in writing, all of its contractors' and materialmen's warranties relating to the Project. All documents or instruments of conveyance, transfer or assignment hereunder shall be in a form and content acceptable to the District's attorneys.

**Section 3. Defects.** Conveyance of the Project to the District shall not relieve the Developer of liability for the correction of any existing engineering or construction defects then existing in the Project or for satisfaction of any unpaid claim for materials or labor. The District shall be under no obligation to contest or challenge any claim for labor or materials; provided, however, that in the event the Developer fails to promptly correct any such defect or satisfy any such claim, the District may elect to do so and, in such event, shall have full rights of subrogation. The Developer shall pay the District for the District's costs in correcting any defect or satisfying any claim including, but not limited to, construction costs, engineering fees, attorneys' fees, building or construction permits, filing fees or court costs.

**Section 4. Survival.** All representations, warranties and agreements of the District and the Developer hereunder shall survive the conveyance of the Project to the District.

## ARTICLE V

### Representations

**Section 1. Representations by the Developer.** The Developer hereby represents to the District that:

(a) All properties of the Developer to be conveyed pursuant to this Agreement shall be conveyed to the District, except as otherwise permitted herein, free and clear of all liens, claims, encumbrances, options, charges, assessments, restrictions and reservations, including without limitation liens for ad valorem taxes for the year in which the sale is closed and prior years, and claims for payments due to the parties to the construction contracts and engineering fees and expenses. The Project shall be in good operating condition and working order, ordinary wear and tear excepted, and shall have been constructed in accordance with the construction contracts, the approved plans and specifications therefor and any District-approved change orders thereto.

(b) There are no fees or other payments due, nor to the knowledge of Developer will any fees or other payments (except as related to the land Developer will sell to the District for the facilities previously discussed) become due at any time in the future, in connection with any of the easements, rights-of-way, contracts, franchises, licenses and permits to be conveyed hereunder, except standard renewal and extension fees on licenses and permits.

(c) To the knowledge of Developer, no objection to the location or use of the Project or to any permits, licenses or franchises applicable to the Project and no adverse claims of title to the lands, leases, rights-of-way, or easements on which the Project is situated or proposed to be situated are presently being asserted by any other entity or entities.

(d) Developer has not entered into or authorized any contracts or agreements in connection with the Project providing for free services or connections, or which would in any manner restrict the rates, charges or fees to be adopted and charged by the District in connection with providing water and wastewater services by means of the Project.

(e) There are no actions, suits or proceedings pending, or, to the knowledge of the Developer, threatened affecting the Project to be sold hereunder, nor to the knowledge of Developer are there pending condemnation proceedings connected with any of the Project to be conveyed hereunder.

(f) The execution and delivery of this Agreement and the transactions contemplated hereby have been duly authorized by the Developer;

(g) This Agreement, the representations and covenants contained herein, and the consummation of the transactions contemplated hereby shall not violate or constitute a breach of any contract or other agreement to which the Developer is a party;

(h) The Developer has made financial arrangements sufficient to assure its ability to perform its obligations hereunder; and

(i) The Developer will send a representative to all meetings of the Board of Directors of the District at which such presence may be requested.

Section 2. Representations by the District. The District hereby represents and covenants to the Developer that it shall use its best efforts:

- (a) To obtain the Commission's approval of the Project;
- (b) To obtain the Commission's approval of the issuance and sale of the District's Bonds;
- (c) To obtain the Attorney General's approval of the Bonds; and
- (d) To obtain registration of the Bonds by the Comptroller of Public Accounts of the State of Texas; and
- (e) To market the Bonds in the manner set forth herein.

## ARTICLE VI

### Expenses and Taxes

Except as otherwise expressly provided herein, each party shall pay its own expenses incident to carrying this Agreement into effect and consummating the transactions provided herein. All ad valorem or property taxes applicable to the Project for the year of closing shall be the obligation of and paid by the Developer.

## ARTICLE VII

### Further Assurances

Section 1. Developer. Developer agrees that from time to time and upon the request of District, Developer will execute and deliver such other instruments of conveyance and transfer and take such other actions as may be reasonably required to more effectively convey, transfer to, and vest title to the Project in District and to put District in possession of all of the Project required to be conveyed, transferred and delivered hereunder; and in the case of contracts and rights, if any, which cannot be transferred effectively without the consent of other parties, to obtain such consents and take such other actions as may be reasonably necessary to assure the District the rights and benefits thereof.

Section 2. District. The District agrees that it will timely initiate and carry to a decision the administrative actions and proceedings reasonably necessary to sell bonds of the District, or to obtain alternate financing by other authorized means, commensurate with the District's reasonable ability to repay any funds so obtained (as such ability may be determined in the good faith judgment of the Board of Directors of the District), so that funds obtained from the sale of such bonds or from such alternate financing will be available to purchase the Project from Developer as soon as is reasonably practicable as determined by the District's Board of Directors and financial adviser. In the event, for valid reasons beyond the District's control, the bonds

cannot be sold or such alternate financing cannot be obtained in compliance with the provisions of or within the time specified in this paragraph or on or before the expiration of ten (10) years from the date hereof, either party may terminate this Agreement by written notice to the other party, and in such event, the District shall not be liable to the Developer or its successor or any third party, nor shall the Developer be liable to the District or its successor or any third party, for any harm arising out of such inability.

## ARTICLE VIII

### Annexation or Consolidation of District

The parties agree that in the event all or any of that part of the District containing the Project is consolidated with or annexed by another governmental entity, any pending sale, at the sole option of the Developer, to be exercised by written notice from Developer to District, shall be closed within sixty (60) days from the date the action of annexing or consolidation is administratively complete. In such event, the annexing or consolidated governmental entity shall for all purposes stand in the place and stead of the District with respect to the terms and provisions of this Agreement, except that the sale of bonds or the obtaining of alternate financing by the annexing or consolidated governmental entity and the receipt of proceeds therefrom to purchase the Project, as specified in this Agreement, shall not be a prerequisite to the enforceability of this Agreement by Developer against the District and/or the annexing or consolidated governmental entity. By way of explanation, the term "administratively complete" as used herein refers to those administrative, executive, ministerial, legislative and quasi-legislative actions required by law to be taken by the governing bodies or the duly authorized officers, employees or agents of the governmental entities directly involved in or having jurisdiction over the consolidation or annexation proceedings in order to accomplish the annexation or consolidation. Specifically excluded from the concept of "administratively complete" are court appeals and other judicial proceedings related to the consolidation or annexation proceedings, and actions by the State or National Legislature, such as (but not limited to) legislation to validate the annexation or consolidation proceedings.

## ARTICLE IX

### Operation by District

Section 1. Use of Improvements. The Developer and the District agree that if the District is unable to purchase the Project facilities or its pro rata share of capacity resulting from the construction thereof at such time as the construction of the Project facilities is certified to be complete by the District's Engineer, the District shall be entitled to utilize the Project facilities for a period of ten (10) years from the date of completion of construction without charge to provide service to users within the District on the same terms and conditions as service is provided to other similar users within the District. In the event the District is unable to sell bonds to purchase the Project facilities at the end of such ten (10) year period, the District shall have the right to use the Project facilities without charge from year to year until the District can meet the conditions set forth in Article III, Section 2. The District shall accept, hold and operate the Project, and the District shall exercise due and proper care in the use and maintenance of the Project and keep same in a good state of repair, and shall maintain such insurance on the Project

as is customarily maintained on facilities of comparable character by public utilities such as the District for so long as the District shall have use of the Project in accordance with the provisions of this Section.

Section 2. Authorizations. The District shall, subject to applicable law, be specifically authorized to and shall:

- (1) Set and enforce rates for water and wastewater services prior to closing the sale of the Project to the District, which shall be the same as rates charged similarly situated customers of the District;
- (2) Establish and enforce reasonable rules governing connections, disconnections, fees, charges, procedures, materials, repairs and all other aspects customarily associated with the proper management of governmental water and wastewater facilities;
- (3) Bill and collect for the services from the customers of the water and wastewater facilities;
- (4) Levy and collect maintenance taxes that may have heretofore been or may hereafter be authorized and that may be necessary to defray or help defray costs to the District;
- (5) Pay all costs and expenses of management, operation and maintenance of the Project or part thereof in question; and
- (6) Perform any and all acts in operating, maintaining and managing the Project, in the place and stead of Developer, the same as Developer could do.

Section 3. The parties hereto understand and agree that the right and privilege granted to District in this Article VIII is and shall be without prejudice to the right of Developer to require the sale of the Project to proceed as provided in this Agreement, and in accordance with the terms and provisions of this Agreement, and that nothing in this Article shall be construed, interpreted or understood to be a present conveyance of title to all or any part of the Project, which title shall remain in Developer. If this Agreement is cancelled pursuant to Article II, above, (failure to close sale within ten (10) years), or pursuant to other provisions hereof prior to closing the sale of the Project, the provisions of this Article VIII shall continue in force and District may continue to provide water, wastewater and drainage services to the customers and beneficiaries of the Project in the manner provided in this Article until another procedure for providing such services mutually agreeable to the parties hereto is established; provided, however, that neither party shall take any action which would cause disruption of services. The parties agree to expedite the transfer of the operation and maintenance of the Project in the event the District elects not to provide these services.

Section 4. Indemnity. Developer agrees to indemnify, defend, and save and hold harmless the District, its officers, Directors, agents, employees and attorneys from and against any and all claims, demands, causes of action, costs, liabilities, and expenses, including attorney's fees, that may arise as a result of any undertaking, act or omission which is done or

omitted to be done by Developer, District (specifically excluding the negligence or willful misconduct of District, its officers, Directors, agents, employees and attorneys), or their officers, Directors, agents, attorneys and employees acting pursuant to this Article VIII.

#### ARTICLE X

##### Binding on Successors

This Agreement may not be assigned in whole or in part by either party hereto without the prior written consent of the other party. This Agreement and the terms and provisions hereof are binding on and inure to the benefit of the successors and assigns of the parties hereto. The assignment of this Agreement in whole or in part by either party hereto shall not relieve the assigning party of its duties and obligations hereunder unless it first obtains the written approval and consent of the other party.

#### ARTICLE XI

##### Representations Survive Conveyance

The agreements and representations made herein by the parties to this Agreement shall survive the closing of the transaction for the conveyance of the Project.

#### ARTICLE XII

##### Remedies

Section 1. Default by the Developer. In the event of default by the Developer hereunder, the District shall have the right:

(a) To terminate this Agreement in full without thereby incurring any liability to the Developer whatsoever;

(b) To assume the outstanding contracts and prosecute construction of the Project to conclusion. In the event that the District exercises this option, the District shall pay to the Developer, upon final completion of the Project, the amount of the purchase price, as set forth in Article II above, less all reasonable amounts paid to contractors, and all reasonable out-of-pocket expenses incurred in prosecuting completion of the Project.

(c) To pursue all other legal or equitable remedies;

(d) To recover from the Developer all expenses incurred in pursuing its legal rights hereunder, including reasonable attorneys' fees.

Section 2. Default by District. In the event of default by the District hereunder, the Developer shall be entitled to seek a writ of mandamus from a court of competent jurisdiction compelling and requiring the District and its officers to observe and perform the covenants, obligations and conditions hereof. The District shall not be liable to any contractor, engineer, attorney or materialman employed by and contracted with the Developer unless the District

expressly assumes such obligation by written instrument. The District shall have no liability to the Developer, except in accordance with the terms hereof.

### ARTICLE XIII

#### Miscellaneous

Section 1. Severability. In case any one or more provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 2. Modification. This Agreement may be modified or varied only by a written instrument subscribed by both of the parties hereto.

Section 3. Assignability. This Agreement may not be assigned in whole or in part by the Developer without the prior written consent of the Board of Directors of the District; which consent shall not be unreasonably withheld; provided, however that the District hereby authorizes the Developer to grant a security interest in the Developer's rights hereunder and to all sums to be paid to the Developer by the District pursuant to this Agreement to any bank or lending institution making a construction or development loan to the Developer for payment of the cost of the Project.

Section 4. Captions. The captions used in connection with the paragraphs of this Agreement are for convenience only and shall not be deemed to construe or limit the meaning of the language contained in this Agreement, or used as interpreting the meanings and provisions hereof.

Section 5. Applicable Law. This Agreement shall be construed and interpreted under the laws of the State of Texas and all obligations of the parties created hereunder are performable in Hays County, Texas.

Section 6. Parties at Interest. This Agreement shall be for the sole and exclusive benefit of the parties hereto and shall never be construed to confer any benefit on any third party. This Agreement shall be binding upon each party, its successors and assigns.

Section 7. Term. Except as otherwise provided herein, this Agreement shall be in force and effect from the date of execution hereof for a term of twelve (12) years or until the transactions contemplated hereby are consummated, whichever first occurs,

Section 8. Force Majeure. If the District is rendered unable, in whole or in part, by force majeure to carry out any of its obligations under this Agreement, then the obligations of the District, to the extent affected by such force majeure and to the extent that due diligence is being used to remedy such inability and to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. The term "force majeure", as used herein, shall include, without limitation, acts of God; strikes, lockouts, or other industrial disturbances; acts of the public enemy; orders of any kind of the Government of the United States or of the State of Texas or any civil or military



authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines or canals; partial or total failure of water supply and inability to provide water necessary for operation of the sewer system, or of the District to receive waste; and any other incapacities of the District, whether similar to those enumerated or otherwise, which are not within the control of the District, which the District could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the District, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the District.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, as of the 22<sup>nd</sup> day of July, 2005.

*The remainder of this page intentionally left blank.*

**HAYS COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 4**

ATTEST:

Secretary



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

President, Board of Directors

**194 BUSH, LTD.****a Texas Limited Partnership**

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

Mike Schoenfeld, Vice President, DH Real  
Estate Investment Company, dba DH  
Investment Company, a Texas Corporation,  
its General Partner

**EXHIBIT A****WATER, SANITARY SEWER AND DRAINAGE FACILITIES**

The Project shall consist of the following water, sanitary sewer and drainage facilities:

A water distribution system, wastewater collection system and drainage system within the land generally referred to as Hays County Municipal Utility District No. 4 and specifically described by the field notes in Exhibit B, together with all improvements, structures, fences, service pumps, air compressors, tanks, storage reservoirs, electrical equipment, plant equipment, distribution lines, collection lines, water mains, lift stations, flush valves, meters, laterals, stormwater mains, drainage facilities, detention ponds, and all other equipment or facilities used or useful in connection with the water distribution system, wastewater collection system and drainage system, all as will be more fully described in the design plans and specifications prepared by the District's Engineer in accordance with this Agreement.

The Project shall also include all costs for expenses of the District as itemized in §49.155, Texas Water Code, as amended, to the extent such costs are reimbursable under the rules and regulations of the Commission.

**EXHIBIT B**

**HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4  
PROPERTY DESCRIPTION**

EXHIBIT B

**"HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4"**  
**Metes & Bounds Description**  
**for**  
**194 acres of land, more or less, in Hays County, Texas**

**FIELD NOTE DESCRIPTION OF 193.926 ACRES OF LAND OUT OF THE WILLIAM S. HOLTON SURVEY NO. 57 ABSTRACT 245 IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (186.61 ACRE) TRACT CONVEYED TO THE C.F. BUSH FAMILY LIMITED PARTNERSHIP BY DEEDS RECORDED IN VOLUME 1266 PAGE 867 AND VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS BUT EXCLUDING THOSE TRACTS PREVIOUSLY CONVEYED TO THE STATE OF TEXAS FOR RIGHT-OF-WAY AS RECORDED IN VOLUME 170 PAGE 318 AND VOLUME 170 PAGE 322 OF THE HAYS COUNTY DEED RECORDS, AND BEING ALL OF THAT (10.00 ACRE) TRACT CONVEYED TO THE C. F. BUSH FAMILY LIMITED PARTNERSHIP BY DEED RECORDED IN VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** at a ½ inch iron pipe found in the southwest line of Lot 13, Oak Run West, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 3 Page 77 of the Plat Records of Hays County, Texas, at the most easterly corner of that certain (200 Acre) tract conveyed from Carl A. Bible et ux. to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 180 Page 422 of the Hays County Deed Records, and being at the Northeast corner of that certain (186.61 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deeds recorded in Volume 1266 Page 867 and Volume 1354 Page 255 of the Hays County Official Public Records, and being the Northwest corner of that certain (20.54 Acres) tract conveyed to William R. Schneider by deed recorded in Volume 443 Page 840 of the Hays County Real Property Records, and being the Northeast corner and **PLACE OF BEGINNING** of the herein described tract;

THENCE with the east line of said Bush (200 Acre) tract, S 08 deg. 07' 52" E 2225.11 ft. to a ½ inch iron pipe found at the intersection of the east line of said Bush (200 Acre) tract and the north right-of-way line of U.S. Highway 290, and being in the north line of that certain (4.09 Acre) tract conveyed to the State of Texas by deed recorded in Volume 170 Page 318 of the Hays County Deed Records, and being the Southwest corner of that certain tract conveyed to David T. Rush by deed recorded in Volume 354 Page 796 of the Hays County Deed Records, and being the Southeast corner of this tract;

THENCE with the north right-of-way line of U.S. Highway 290, the following six courses:

- 1) S 70 deg. 52' 57" W 58.87 ft. to a concrete monument found at a point of curvature;
- 2) a curve to the left, having a radius of 5829.65 ft., an arc length of 408.49 ft., and a chord bearing of S 62 deg. 59' 57" W 408.41 ft. to a concrete monument found at a point of tangency;
- 3) S 60 deg. 58' 12" W at 1388.86 ft. passing a 14" wood fence corner post in the common line of said Bush (200 Acre) tract and that certain (300 Acre) tract conveyed from Ernest T. Leonard to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 175 Page 619 of the Hays County Deed Records, and continuing on the same course 489.74 ft. more, for a total distance of 1878.59 ft., to a concrete monument found;
- 4) S 49 deg. 31' 22" W 203.73 ft. to a concrete monument found;
- 5) S 60 deg. 57' 04" W 339.85 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the south line of said Bush (300 Acre) tract, and being a point in the north line of that "old road" conveyed to the State Highway Department of Texas by right-of-way deed recorded in Volume 107 Page 576 of the Deed Records of Hays County, Texas;
- 6) S 68 deg. 37' 00" W 224.56 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the east line of that certain (249.949 Acre) tract conveyed to 4-J Land Company, Inc. by deed recorded in Volume 324 Page 387 of the Hays County Deed Records, and being the Southwest corner of this tract;

THENCE crossing the interior of said Bush (300 Acre) tract with the common line of said 4-J Land Company (249.949 Acre) and said C.F. Bush, Jr. Family Limited Partnership (186.61 Acre) tract, the following four courses:

- 1) N 22 deg. 07' 34" W at 269.78 ft. passing a 5/8" iron rod found at the Southeast corner of Lot 99, Heritage Oaks Section 2-A, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2 Page 115 of the Hays County Plat Records, and continuing on the same course at 150.4 ft. passing the record most southerly corner of that certain (10.00 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deed recorded in Volume 1354 Page 255 of the Hays County Official Public Records, and continuing on the same course at 189.70 ft. passing a 5/8" iron rod found at the Northeast corner of said Lot 99, and continuing on the same course 293.70 ft. more, for a total distance on this bearing of 903.58 ft., to a 5/8" iron rod found;
- 2) N 22 deg. 03' 40" W at 293.70 ft. passing the record most westerly corner of said C.F. Bush, Jr. Family Limited Partnership (10.00 Acre) tract, and continuing on the same course 452.11 ft., more for a total distance of 700.03 ft., to a 60 D nail found in the top of a fence corner post in the south line of Lot 104 of said Heritage Oaks Section 2-A;
- 3) N 60 deg. 38' 24" E 1054.57 ft. to a 60 D nail found in top of a fence corner post at the most easterly southeast corner of Lot 109 of said Heritage Oaks Section 2-A;
- 4) N 11 deg. 16' 37" E 3008.40 ft. to a 1/2 inch iron rod found in the northeast line of said Bush (200 Acre) tract, being a point in the southwest line of Lot 24 of said Oak Run West, and being at the most northerly corner of said C.F. Bush Family Limited Partnership (186.61 Acre) tract, and being the most easterly corner of said 4-J Land Company tract, and being the most easterly corner of Lot 124 of said Heritage Oaks Section 2-A, and being the most northerly corner of this tract;


THENCE with the northeast line of said Bush (200 Acre) tract, the following three courses:

- 1) S 46 deg. 58' 20" E at 229.64 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 23 of said Oak Run West, and continuing on the same course 30.05 ft. more, for a total distance on this bearing of 259.69 ft., to a 60 D nail found at the base of a fence corner post;
- 2) S 50 deg. 34' 08" E at 147.83 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 22 of said Oak Run West and continuing on the same course 108.10 ft. more, for a total distance of 255.93 ft., to a 1/2 inch iron rod found;

3) S 50 deg. 40' 00" E at 461.95 ft. passing a ½ inch iron rod found at the most southerly corner of Lot 19 of said Oak Run West, and continuing on the same course at 540.89 ft. passing a ½ inch iron rod found at the most southerly corner of Lot 16 of said Oak Run West, and continuing on the same course 441.13 ft more, for a total distance on this bearing of 1443.97 ft., to the Place of Beginning, containing 193.926 Acres of land.

SURVEYED: January 19, 2001

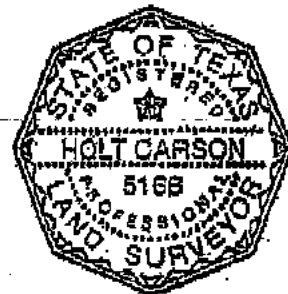
BY:



Holt Carson

Registered Professional Land Surveyor No. 5166

see accompanying map no. B596002a





**EXHIBIT "C"**

**Plat of Bush Ranch – Phase I (Village at Ledgestone)**

**Bush Ranch Phase 1**

**Vol 13 Pages 225-232**

**Filed on 12<sup>th</sup> of September, 2006 in the Plat  
Records of Hays County.**



**EXHIBIT "D"**  
**ENGINEER'S DESIGN CERTIFICATION**

The undersigned person, a professional engineer licensed with the State of Texas, hereby certifies to the following:

1. I am generally familiar with the Bush Ranch Phase I subdivision (the "Subdivision"), commonly known as "Ledge Stone," which is a master planned development in Hays County, Texas, formerly known as Bush Ranch.
2. I am familiar with the Texas Commission on Environmental Quality's Edwards Aquifer Protection Program and, specifically, "Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer" published as an Appendix to the TCEQ's Regulatory Guidance Document RG-348 (February 14, 2005) approved by the United States Fish and Wildlife Service as an alternative to a no "take" determination under the Endangered Species Act (the "Edwards Rules"). Copies of both the Edwards Rules and USFWS letter dated February 14, 2005, are attached hereto as Exhibits "A" and "B," respectively, and incorporated herein by reference for all purposes.
3. In addition to conducting site visits of the Subdivision, I have reviewed the following plans and plats for the Subdivision:
  - (a) Subdivision Plat of Bush Ranch Phase 1;
  - (b) Construction Plans for Bush Ranch Subdivision Phase 1, Section 1;
  - (c) Construction Plans for Bush Ranch Subdivision Phase 1, Section 2.
4. It is my opinion, as a professional engineer, that if the facilities contemplated by the above- referenced subdivision plans and plats are constructed and/or installed as contemplated, the Subdivision will be in substantial compliance with the Edwards Rules described in paragraph 2., above, that pertain to stream buffers, permanent BMP implementation, TSS removal requirements, and measures to protect stream morphology. Furthermore, the plans, plats, deed restrictions and/or restrictive covenants for the Subdivision incorporate physical elements, such as stream buffers and permanent best management practices for the Subdivision, that are reasonably consistent with the Edwards Rules.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

(Seal) Texas Registration Number \_\_\_\_\_

## **EXHIBITS**

### **Exhibit**

### **Description**

"A"

Edwards Rules

"B"

USFWS Letter

"C"

Subdivision Plat of Bush Ranch Phase 1

"D"

Construction Plans for Bush Ranch

Subdivision Phase 1, Section 1

"E"

Construction Plans for Bush Ranch

Subdivision Phase 1, Section 2



## EXHIBIT "E"

### ENGINEER'S CERTIFICATION OF ACCEPTANCE & COMPLETION

The undersigned person, a professional engineer licensed with the State of Texas, hereby certifies to the following:

1. I am generally familiar with the Bush Ranch Phase I subdivision (the "Subdivision"), commonly known as "Ledge Stone," which is a master planned development in Hays County, Texas, formerly known as Bush Ranch.
2. I am familiar with the Texas Commission on Environmental Quality's Edwards Aquifer Protection Program and, specifically, "Optional Enhanced Measures for the Protection of Water Quality in the Edwards Aquifer" published as an Appendix to the TCEQ's Regulatory Guidance Document RG-348 (February 14, 2005) approved by the United States Fish and Wildlife Service as an alternative to a no "take" determination under the Endangered Species Act (the "Edwards Rules"). Copies of both the Edwards Rules and USFWS letter dated February 14, 2005, are attached hereto as Exhibits "A" and "B," respectively, and incorporated herein by reference for all purposes.
3. In addition to conducting site visits of the Subdivision and having reviewed the plans and plats for the Subdivision, I have inspected the completed facilities:  
\_\_\_\_\_
4. Construction plans and plats for the Subdivision are filed as public records as follows:  
\_\_\_\_\_
5. It is my opinion, as a professional engineer, that the facilities were constructed as contemplated by the above-referenced Subdivision plans and plats and, accordingly, the Subdivision is in substantial compliance with the Edwards Rules described in paragraph 2., above that pertain to stream buffers, permanent BMP implementation, TSS removal requirements, and measures to protect stream morphology. Furthermore, the plans, plats, deed restrictions and/or restrictive covenants for the Subdivision incorporate physical elements, such as stream buffers and permanent best management practices for the Subdivision, that are reasonably consistent with the Edwards Rules.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

(Seal) Texas Registration Number \_\_\_\_\_





## **EXHIBIT "F"**

### **AGREED COST ESTIMATES<sup>1</sup>**

**A. Water System Construction Cost Estimates Plus ten percent (10%) for Engineering:**

Sections 1 & 2        \$ 495,655.00<sup>2</sup>

Section 3            \$ 151,326.00<sup>3</sup>

Total Cost Estimate: \$ 646,981.00

Initials:

\_\_\_\_\_  
LCRA

\_\_\_\_\_  
Seller

\_\_\_\_\_  
MUD

<sup>1</sup> The Parties acknowledge and agree that the estimate expressed in this Exhibit "F" is a preliminary estimate based upon the information available to the Parties as of the Effective Date. Accordingly, the Parties further acknowledge that the estimate is subject to being modified from time-to-time based upon new information that becomes available to the Parties and the actual costs incurred by the Seller.

<sup>2</sup> Construction of Sections 1 and 2 is complete.

<sup>3</sup> Construction of Section 3 is scheduled to commence during calendar year 2007.

**EXHIBIT "G"**

**Agreement Concerning Creation and Operation of  
Hays County Municipal Utility District No. 4 and Lands Within the District  
dated July 25, 2002**

**AGREEMENT CONCERNING CREATION AND OPERATION OF  
HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4  
AND LANDS WITHIN THE DISTRICT**

THIS AGREEMENT ("Agreement") made and entered into by and between the City of Dripping Springs, Texas, (the "City"), a general law city situated in Hays County, Texas, acting herein by and through its undersigned duly authorized Mayor, as authorized by specific action of its City Council; Hays County Municipal Utility District No. 4, a municipal utility district created on the 3rd day of July, 2003 by order of the Texas Natural Resource Conservation Commission or successor agency and operating pursuant to Chapter 54 of the Texas Water Code; and 194 Bush, Ltd., a Texas limited partnership, its successors and assigns the ("Partnership").

**RECITALS**

WHEREAS, the Partnership is the holder of legal title to all of the land comprising the District, which consists of approximately 194 acres situated wholly in Hays County, Texas, and within the extraterritorial jurisdiction of the City, which land is more particularly described in Exhibit "A" (the "Property"); and

WHEREAS, the Property is included within the boundaries of the Hays County Municipal Utility District No. 4 (the "District") created on the 3rd day of July, 2003 by order of the Texas Natural Resource Conservation Commission or successor agency ("TNRCC"); and

WHEREAS, pursuant to Section 42.042 of the Texas Local Government Code, as amended, and Section 54.016, Texas Water Code, as amended, the City has consented, subject to certain terms and conditions of this Agreement, to the creation of the District by Resolution adopted on July 23<sup>rd</sup>, 2002, in an open and duly posted public meeting of the City (the "Resolution"); and

WHEREAS the City and the Partnership wish to enter into certain agreements regarding the proposed development within the District (the "Project"), in order to provide for orderly development of the Project, which may include mixed-use development, including but not limited to, single-family residential homes, commercial and light industrial development and schools; and

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH BELOW, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED BY THE PARTIES, THE PARTIES CONTRACT, COVENANT AND AGREE AS FOLLOWS:

## ARTICLE I

## AGREEMENTS REGARDING DISTRICT CREATION

Section 1. The Partnership and the District will construct all facilities and infrastructure to serve the land within the District in accordance with plans and specifications that have been approved by the City, pursuant to City ordinance, as amended from time to time including those pertaining to utility design, construction and installation requirements. The City shall have the right to inspect, at reasonable times, all facilities being constructed by the Partnership or the District. The City agrees to review all plans and specifications provided by the Partnership or the District in a timely manner and pursuant to the procedures set forth in City ordinances and guidelines; not to unreasonably withhold its approval of such plans and specifications; and to conduct its inspections of ongoing construction in a manner that minimizes interference with such construction.

Section 2. Pursuant to Section 54.016, the parties agree that the purposes for which the District's bonds, or other lawful obligations to be issued by the District, may be issued are limited to the purposes of purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances, and associated professional and licensing or permitting fees, necessary:

(a) To provide a water supply for municipal uses, domestic uses and commercial purposes; and

(b) To collect, transport, process, dispose of and control all domestic, commercial, industrial or communal wastes, whether fluid, solid or composite state; and

(c) To gather, conduct, divert and control local storm water or other local harmful excesses of water in the District, related water quality facilities, and/or the payment of organization expenses, operation expenses during construction and interest during construction; and

(d) To provide parks and other recreational facilities as may be consistent with City ordinances and authorized pursuant to Chapters 49 and 54 of the Texas Water Code; and

(e) To provide any other facilities, amenities and/or improvements that benefit the Property within the District, that are consistent with City ordinances, and that qualify for developer reimbursement pursuant to rules promulgated by TNRCC.

Section 3. The District shall, within five (5) days of submittal, provide any bond package that it submits to the TNRCC (or successor agency) to the City for review, comments, and recommendations. The District further agrees to incorporate the City's recommendations into the District's final bond sales packages, so long as the recommendations, in the sole reasonable judgment of the District, do not render the bonds and notes unmarketable or considers such recommendations to not be materially detrimental to the District. The City's recommendations may be based upon, but will not be limited to, the following considerations: (1) overlapping tax rates, (2) the number of homes occupied, (3) taxpayer concentrations and

debt to assessed value ratios within the District, (4) TNRCC rules regarding obtaining a market study, and (5) overall compliance with TNRCC rules. Further, to the extent the following conditions are in compliance with TNRCC's (or successor agency) rules, and so long as the Board of Directors of the District approves conditions (a)-(e) below, for any individual bond issuance the parties agree that the District Bonds:

- (a) Will have a maximum maturity of 25 years;
- (b) Will not have interest rates that exceed 2% above the weekly tax exempt Bond Buyer Index for 25 year revenue bonds;
- (c) Will not be issued if the District's debt to certified taxable assessed valuation as determined by the records of the Hays County Appraisal District will exceed 25 percent upon issuance;
- (d) Will have amortization that results in level debt service payments over the life of the issue, except for an initial period, of up to 5 years of interest only payments; and
- (e) So long as it does not increase the District's interest rate on the proposed bonds, will contain the City's recommended call redemption features.

Section 4. The parties acknowledge that the Partnership may obtain Certificates of Convenience and Necessity ("CCN") from the TNRCC to provide water and/or sewer services throughout the boundaries of the District and will abandon or transfer those CCN(s) to the District upon its creation and subsequent TNRCC approval of any transfer. Should persons or entities other than the Partnership or the District apply for a water or a sewer CCN for areas within the District then, except for CCNs sought to provide the utility service contemplated in Section 10 below, the Partnership and the District shall oppose those CCN applications.

Section 5. One of the purposes of this Agreement is to authorize the District and the City, pursuant to the provisions of Section 54.016 of the Texas Water Code that allow a district and a city to contract regarding annexation, to enter into a binding contract regarding the terms and conditions of annexation of areas within the District by the City. The parties acknowledge that the City may annex area within the District in the future. Accordingly, the Parties agree as follows:

- (a) If the City annexes the entire area in the District, then the City will succeed to all the powers, duties, assets and obligations of the District, including but not limited to any rights and obligations under valid and duly-authorized contracts entered into by the District prior to the first notice of annexation (e.g., developer reimbursement agreement) and any bond obligations. The District will not enter into any developer reimbursement agreements or agreements for new projects or extraordinary expenses, except as necessary for continued operation and maintenance of existing District facilities, after publication of the first notice of proposed annexation. The District further agrees that any agreements with the District in violation of this requirement shall be void.

(b) Alternatively, the City may exercise any options available under Chapter 43 of the Texas Local Government Code, or similar annexation laws of the State of Texas, that are in effect with regard to the provision of water and/or sewer service to areas within Municipal Utility Districts that are annexed by cities.

Section 6. Unless it obtains prior approval of the City Council of the City, the District shall not: (1) construct or install water or wastewater lines or facilities to serve areas outside the District; (2) sell or deliver water or wastewater service to areas outside the District; or (3) annex any additional land to the District. Any land for which annexation to the District or out-of-district service is hereafter requested and approved shall be subject to the terms of this Agreement.

Section 7. After annexation, the City may set rates for water and/or sewer services for property that was within the District at the time of annexation which may include a surcharge in addition to the rates charged to other ratepayers of the City for the purpose of wholly or partially compensating the City for the assumption of the District's obligations; provided that the City does not annex the area within the District until at least 90% of the Project facilities have been installed for which District bonds are authorized pursuant to this Agreement. Additionally, any such additional surcharges above the rates for other properties within the City shall be calculated as an additional amount up to but not exceeding 100% of the water and/or sewer rates of the City. Such additional surcharges shall be calculated solely to recover those District debts and other obligations assumed by the City upon annexation which are not covered by any increase in the City's ad valorem tax revenue arising out of the annexation. The surcharge may continue for thirty (30) years after the initial District debt is issued or until the bonded indebtedness of the District has been retired, whichever occurs last, but in no case for a longer period of time than is necessary to wholly compensate the City for its assumption of the obligations of the District. The District shall comply with all of the requirements of Section 54.016(h), or such similar laws as may be in effect, regarding filing with the county clerk a duly affirmed and acknowledged statement which includes certain notice information to purchasers of property regarding the City's right to collect this surcharge.

Section 8. The Partnership and the District agree not to contest the City's annexation of the area within the District; provided, however, that the City shall not undertake to annex, or otherwise impose any ad valorem or other taxes or assessments upon the Property until at least 90% of the Project facilities have been installed for which District bonds are authorized pursuant to this Agreement.

Section 9. The City will express support for, but need not become a party to proceedings related to, the creation and funding of the District and the governmental approvals necessary for construction and operation of facilities to serve the area within the District, including, but not limited to, a CCN.

Section 10. The Partnership or the District recognize that the City may seek a CCN to become the retail water and/or wastewater provider for the area included in the District, and the Partnership and the District agree to support such CCN applications, assuming the Partnership or District has not previously filed a CCN application(s). Alternatively, the Partnership may undertake to construct the utilities or other facilities to serve the area in the District and may negotiate and enter into developer reimbursement agreements with the District, provided that the

District will give the City the opportunity to review and provide comments to the District on such developer reimbursement agreements. Unless the City has (i) executed a final agreement between the City and a qualified third-party provider of water and/or wastewater utility services and said final agreement stipulates that the City is to be the provider of such service(s) within the area included, or to be included, within the boundaries of the District, and (ii) the City has filed an application for a water and/or sewer CCN for the areas within the District, the Partnership and the District also may negotiate and enter into an agreement or agreements with one or more qualified third party providers of water and/or wastewater utility services, including the Lower Colorado River Authority ("LCRA"), for the purpose(s) of obtaining wholesale or retail water and/or wastewater services for the area to be included in the District (the "Utility Agreements"). The Partnership and the District shall require such provider (i) to construct all facilities and infrastructure to serve the land within the District in accordance with plans and specifications that have been approved by the City; and (ii) to grant the City the right to inspect, at reasonable times, all facilities being constructed by such provider. The City agrees to review all plans and specifications submitted by the provider in a timely manner and pursuant to the procedures set forth in City ordinances and guidelines, applicable to the Partnership and District, not to unreasonably withhold its approval of such plans and specifications, and to conduct its inspections of ongoing construction in a manner that minimizes interference with such construction. The Partnership and the District further agree to give the City notice of any Utility Agreement(s) it negotiates with third party retail providers and, in good faith, to seek agreement with the provider that the provider's CCNs for such service within the District will be transferred to the City upon annexation pursuant to terms and conditions negotiated between the City and the provider.

## ARTICLE II

### PROJECT LAND USE AND DEVELOPMENT

Section 1. The City agrees that, during the term of this Agreement, it will not impose or attempt to impose: (a) any moratorium on building or development within the Project, or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plans, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Project. No City imposed moratorium, growth restriction, or other limitation affecting the rate, timing or sequencing of development or construction of all or any part of the Project will apply to the Project if such moratorium, restriction or other limitation conflicts with this Agreement or would have the effect of increasing the Partnership's obligations or decreasing the Partnership's rights and benefits under this Agreement. This agreement on the part of the City will not apply to temporary moratoriums uniformly imposed throughout the City due to an emergency constituting an imminent threat to the public health or safety, provided that the temporary moratorium continues only during the duration of the emergency.

Section 2. The Partnership further agrees:

(a) to provide a minimum of thirty-five (35) acres of the Property as "Open Space," to be used for green belts, parks, water quality buffer zones, drainage and water quality facilities, multiple use trails, all uses as approved pursuant to any agreement the

Partnership may enter into with the U.S. Fish and Wildlife Service, it being understood that such areas may be crossed with or contain utility easements and lines, roadway crossings, and other infrastructure required to provide service to the areas within the District; and

(b) to adopt, and cause to be recorded with the Clerk of Hays County, a set of covenants and restrictions for the Property, which provide for, inter alia, the establishment of a Homeowners' Association, to include an "Architectural Design Criteria and Control Committee" (the "HOA").

(c) Entrances and egress to and from the property will, as reasonably possible, be aligned with or off set a minimum of 300 feet from opposite roadways and will comply with Hays County and Dripping Springs off-set and alignment regulations. Furthermore, the Partnership agrees to limit public roadway access to the property to two locations however, the ultimate locations of public roadway access points may vary depending on adjacent and / or across the highway development plans and improvements that may be made by TxDOT, the Partnership, or others to U.S. Hwy 290 West.

Section 3. Due to the size of the Property and the likely duration of its development being several years, the City and the Partnership mutually agree that there is a need to plan ahead for adequate public facilities including, but not limited to, water and wastewater and other public utility facilities, water quality and storm water detention facilities, open space and roadways (the Project Infrastructure"). The City and the Partnership mutually agree that it is a benefit to the Parties for the Project infrastructure to be properly and adequately planned and designed in a manner and capacity to properly serve the Project and to ensure the City that, if and when it may annex the Property, those facilities are adequate and of the best quality possible. It is also beneficial to the Parties that the Project be planned and developed in a manner that is sensitive to the environment, protects water quality, and successfully meets the needs and demands of the growing community. In order to accomplish the above, it is necessary for there to be stable and predictable rules and regulations applicable to the Project. Except as otherwise provided in this Agreement (for example, Article I, Sections 1 and 10), the City rules, regulations and official policies applicable to the development of the Project during the term of this Agreement will be those City ordinances, regulations, and official policies (collectively, "Current Rules") in force and as interpreted by the City by policy or practice on July 23<sup>rd</sup>, 2002 (the "Vesting Date"). The Partnership also agrees to abide by the current City Outdoor Lighting Ordinance #1260.00, which ordinance does not currently apply to the Property. The Parties agree that Current Rules along with certain variances thereto, will help ensure the successful long term planning and development of the Property. As agreed between the Partnership and the City, the variances from the Current Rules granted to the Partnership on the Property for the Project (the "Variances") are attached hereto, and incorporated herein in their entirety by reference, as Exhibit "B". It is understood that the Current Rules along with the Variances (collectively the "Applicable Rules") will apply to the Property until the earlier to occur of (i) the effective date of the City's annexation of the Property or (ii) the termination of this Agreement.

Section 4. To assure the City of the timely and proper installation of utility and roadway infrastructure within the Project, the Partnership may provide a subdivision construction agreement that contractually obligates the Partnership to complete the construction of such infrastructure prior to selling final platted property (or portions thereof) in lieu of any other fiscal



security requirements, required pursuant to the Applicable Rules. So long as the Partnership provides fiscal security for the utility and roadway infrastructure serving all or portions of the final platted areas of the Property and otherwise as provided in the Applicable Rules, the Partnership may sell all or portions of the lots located within a final platted area prior to completion of the utility and roadway infrastructure for that final platted area.

Section 5. The City grants the Partnership (i) an exemption from Ordinance No. 52B, the City's Site Development Ordinance, for all single-family lots within the Project, and (ii) without limiting the generality of the foregoing, a waiver of the requirement of Section 8.D. of Ordinance No. 52B that a buffer area equal to 20% of the lot be provided downhill of impervious coverage where water quality and detention is provided either through on-site or regional water quality and detention facilities.

Section 6. The City agrees that the dedication of Open Space areas to the HOA or the District, or placing upon such areas a recorded deed restriction or Open Space easement in accordance with the provisions of Section 2. (a) herein, will satisfy the requirement of Section 15.J. of Ordinance No. 1230.1 and Sections 2-4 of Ordinance 1230.3.

Section 7. In the event of any third party lawsuit or other claim relating to the validity of this Agreement and/or any actions taken by the City and the Partnership hereunder, the City and the Partnership agree as follows:

(a) the Partnership and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement; and

(b) the filing of any third party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of either the Project or the Property, or the City's processing or issuance of any approvals for the Project and the Property, unless otherwise required by a lawful order of a court of competent jurisdiction.

Section 8. In recognition that the agreements in this Article II regarding land use and development may result in increased costs or other administrative burdens on the City, and as additional consideration therefore, without which the City would not have entered into Article II of this Agreement, the Partnership agrees to pay the City up to \$55,000.00, payable as follows:

(a) \$5,000.00 to be delivered within 5 business days of the date the Agreement is executed by the City, said \$5,000.00 is to be treated by the City as a prepaid credit in favor of the Partnership to cover any application, filing, inspection and other miscellaneous fees charged by the City in connection with the Partnership's development of the Property ; and

(b) up to \$50,000, lawfully reimbursed to the Partnership out of proceeds from the issuance of bonds by the District described in this Agreement. This amount will be calculated at the rate of 5% of each bond reimbursement received by the Partnership for costs advanced by the Partnership for the construction of water, wastewater and drainage utility facilities within the Project. Each installment of the sum (i) will be

payable solely out of the proceeds of the District's bonds, (ii) will be contingent upon the creation of the District and the sale and funding of the District's bonds, (iii) will be paid by the Partnership to the City within 5 days after the Partnership's receipt of the bond reimbursement upon which the sum is calculated and (iv) will equal five percent (5%) of the amount of bond reimbursement actually received by the Partnership.

Section 9. The Partnership shall establish an initial deposit of \$2,500 with the City, which is intended to cover all City legal and engineering fees and administrative expenses associated with this Agreement. If the fees and expenses incurred by the City exceed the amount of the initial deposit, the Partnership will pay the additional fees and expenses upon the City's request. If the fees and expenses incurred by the City are less than the amount of the initial deposit, the City will refund the balance to the Partnership upon the Partnership's request.

### ARTICLE III

#### OTHER PROVISIONS

Section 1. In the event of any third party lawsuit or other claim relating to the validity of this Agreement and/or any actions taken by the Parties hereunder, the parties agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement.

Section 2. All of the terms of this Agreement shall be binding upon, shall inure to the benefit of, and shall be severally enforceable by and against each party to this Agreement, individually, and such party's respective personal representatives, successors, trustees, receivers, and assigns. Notice of assignment by a Party of any rights or obligations under this Agreement shall be furnished to the other Party no less than 20 business days prior to the Assignment.

Section 3. If either Party believes that the other Party has failed to comply with the requirements of this Agreement, the non-failing Party shall provide the other Party with written notice of such alleged failure to comply, and failing Party shall have sixty (60) days thereafter to correct such non-compliance. If the Party fails to correct such non-compliance within such time, the non-failing Party shall have available all remedies allowed by law and/or this Agreement.

Section 4. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AS IT APPLIES TO CONTRACTS PERFORMED WITHIN THE STATE OF TEXAS AND WITHOUT REGARD TO ANY CHOICE OF LAW RULES OR PRINCIPLES TO THE CONTRARY. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS PERFORMABLE IN HAYS COUNTY, TEXAS AND HEREBY SUBMIT TO THE JURISDICTION OF THE COURTS OF THAT COUNTY, AND HEREBY AGREE THAT ANY SUCH COURT SHALL BE A PROPER FORUM FOR THE DETERMINATION OF ANY DISPUTE ARISING HEREUNDER.

Section 5. This Agreement may not be amended or modified other than by a written agreement executed by the parties, nor may any provision be waived except by a writing signed by the party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given.

Section 6. Each Party represents and warrants to the other that it has full authority to execute this Agreement and implement its terms and conditions.

Section 7. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement, or the application thereof to any person or entity or under any circumstances, is invalid or unenforceable to any extent under applicable law, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances, and a new provision shall be deemed substituted in lieu of the provision so severed which new provision shall, to the extent possible, accomplish the intent of the parties as evidenced by the provision so severed.

Section 8. In addition to all the rights and remedies provided by the laws of the state, in the event the District violates the terms and provisions of this Agreement, the City shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the District and its officials to observe and comply with the terms and provisions prescribed in this Agreement.

Section 9. The parties acknowledge that each party and, if it so chooses, its counsel, have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or Exhibit(s) hereto.

Section 10. This Agreement shall be effective from the date of execution hereof by the City and the Partnership, and shall continue in effect for a period of 15 years from the date of the execution hereof by the District or until such time as all District Bonds shall have been repaid, whichever is later; provided, however, if the creation of the District has not been confirmed at an election conducted on or before the first Saturday of May in the year 2005, then this Agreement may, at the option of the Partnership or the City, be terminated by written notice.

IN WITNESS HEREOF, each of the parties has caused this Agreement to be executed by its undersigned duly authorized representative, in multiple counterparts, each of which shall be deemed an original, as of the date indicated below, it being understood that all parties need not sign the same counterparts and all of such counterparts shall together constitute one and the same instrument.

CITY OF DRIPPING SPRINGS

By: Todd Purcell

Todd Purcell, Mayor  
City of Dripping Springs, Texas

Executed on July 25<sup>th</sup>, 2002

ATTEST:

Ginger Faught  
Ginger Faught, City Secretary  
City of Dripping Springs, Texas

STATE OF TEXAS

COUNTY OF HAYS

§  
§  
§

BEFORE ME, the undersigned authority, on this day personally appeared Todd Purcell, Mayor of the City of Dripping Springs, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said City of Dripping Springs.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 25<sup>th</sup> day of July, 2002.

Ginger Faught  
Notary Public, State of Texas



**HAYS COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 4**

By:   
(Print Name): Emily Jane Monroe

Title: President

Executed on March 4, 2004

STATE OF TEXAS

§

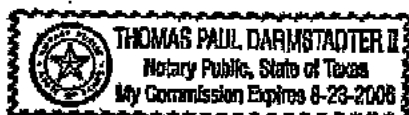
COUNTY OF HAYS

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BEFORE ME, the undersigned authority, on this day personally appeared Emily Jane Monroe, President of the Hays County Municipal Utility District No. 4, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of the said Hays County Municipal Utility District No. 4.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 4th day of March, 2004.



  
Notary Public, State of Texas

By: 194 BUSH, LTD.

DH Real Estate Investment Company dba DH  
Investment Company, a Texas Corporation,  
General Partner

By: Michael L. Schoenfeld  
Michael L. Schoenfeld, Vice President

Executed on July 25<sup>th</sup>, 2002

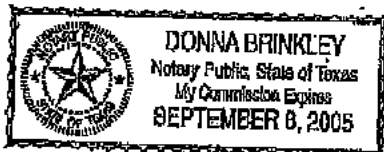
STATE OF TEXAS

§  
§  
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COUNTY OF HAYS

BEFORE ME, the undersigned authority, on this day personally appeared Michael L. Schoenfeld, Vice President of DH Real Estate Investment Company dba DH Investment Company, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 25<sup>th</sup> day of July, 2002.



Donna Brinkley  
Notary Public, State of Texas

**EXHIBIT "A"****"HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 4"****Metes & Bounds Description****for****780 acres of land, more or less, in Hays County, Texas**

**FIELD NOTE DESCRIPTION OF 193.926 ACRES OF LAND OUT OF THE WILLIAM S. HOLTON SURVEY NO. 57 ABSTRACT 245 IN HAYS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN (186.61 ACRE) TRACT CONVEYED TO THE C.F. BUSH FAMILY LIMITED PARTNERSHIP BY DEEDS RECORDED IN VOLUME 1266 PAGE 867 AND VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS BUT EXCLUDING THOSE TRACTS PREVIOUSLY CONVEYED TO THE STATE OF TEXAS FOR RIGHT-OF-WAY AS RECORDED IN VOLUME 170 PAGE 318 AND VOLUME 170 PAGE 322 OF THE HAYS COUNTY DEED RECORDS, AND BEING ALL OF THAT (10.00 ACRE) TRACT CONVEYED TO THE C. F. BUSH FAMILY LIMITED PARTNERSHIP BY DEED RECORDED IN VOLUME 1354 PAGE 255 OF THE HAYS COUNTY OFFICIAL PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

BEGINNING at a ½ inch iron pipe found in the southwest line of Lot 13, Oak Run West, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 3 Page 77 of the Plat Records of Hays County, Texas, at the most easterly corner of that certain (200 Acre) tract conveyed from Carl A. Bible et ux. to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 180 Page 422 of the Hays County Deed Records, and being at the Northeast corner of that certain (186.61 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deeds recorded in Volume 1266 Page 867 and Volume 1354 Page 255 of the Hays County Official Public Records, and being the Northwest corner of that certain (20.54 Acres) tract conveyed to William R. Schneider by deed recorded in Volume 443 Page 840 of the Hays County Real Property Records, and being the Northeast corner and PLACE OF BEGINNING of the herein described tract:

HAYS COUNTY MUNICIPAL UTILITY STREET NO. 4  
Meters & Bounds Description

THENCE with the east line of said Bush (200 Acre) tract, S 08 deg. 07' 52" E 2225.11 ft. to a ½ inch iron pipe found at the intersection of the east line of said Bush (200 Acre) tract and the north right-of-way line of U.S. Highway 290, and being in the north line of that certain (4.09 Acre) tract conveyed to the State of Texas by deed recorded in Volume 170 Page 318 of the Hays County Deed Records, and being the Southwest corner of that certain tract conveyed to David T. Rush by deed recorded in Volume 354 Page 796 of the Hays County Deed Records, and being the Southeast corner of this tract;

THENCE with the north right-of-way line of U.S. Highway 290, the following six courses:

- 1) S 70 deg. 52' 57" W 58.87 ft. to a concrete monument found at a point of curvature;
- 2) a curve to the left, having a radius of 5829.65 ft., an arc length of 408.49 ft., and a chord bearing of S 62 deg. 59' 57" W 408.41 ft. to a concrete monument found at a point of tangency;
- 3) S 60 deg. 58' 12" W at 1388.86 ft. passing a 14" wood fence corner post in the common line of said Bush (200 Acre) tract and that certain (300 Acre) tract conveyed from Ernest T. Leonard to Claude F. Bush, Jr. and Mary Pauline Bush by deed recorded in Volume 175 Page 619 of the Hays County Deed Records, and continuing on the same course 489.74 ft. more, for a total distance of 1878.59 ft., to a concrete monument found;
- 4) S 49 deg. 31' 22" W 203.73 ft. to a concrete monument found;
- 5) S 60 deg. 57' 04" W 339.85 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the south line of said Bush (300 Acre) tract, and being a point in the north line of that "old road" conveyed to the State Highway Department of Texas by right-of-way deed recorded in Volume 107 Page 576 of the Deed Records of Hays County, Texas;
- 6) S 68 deg. 37' 00" W 224.56 ft. to a ½ inch iron rod set with plastic cap marked "Carson and Bush Professional Surveyors" in the east line of that certain (249.949 Acre) tract conveyed to 4-J Land Company, Inc. by deed recorded in Volume 324 Page 387 of the Hays County Deed Records, and being the Southwest corner of this tract;



THENCE crossing the interior of said Bush (300 Acre) tract with the common line of said 4-J Land Company (249.949 Acre) and said C.F. Bush, Jr. Family Limited Partnership (186.61 Acre) tract, the following four courses:

1) N 22 deg. 07' 34" W at 269.78 ft. passing a 5/8" iron rod found at the Southeast corner of Lot 99, Heritage Oaks Section 2-A, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2 Page 115 of the Hays County Plat Records, and continuing on the same course at 150.4 ft. passing the record most southerly corner of that certain (10.00 Acre) tract conveyed to the C.F. Bush, Jr. Family Limited Partnership by deed recorded in Volume 1354 Page 255 of the Hays County Official Public Records, and continuing on the same course at 189.70 ft. passing a 5/8" iron rod found at the Northeast corner of said Lot 99, and continuing on the same course 293.70 ft. more, for a total distance on this bearing of 903.58 ft., to a 5/8" iron rod found;

2) N 22 deg. 03' 40" W at 293.70 ft. passing the record most westerly corner of said C.F. Bush, Jr. Family Limited Partnership (10.00 Acre) tract, and continuing on the same course 452.11 ft., more for a total distance of 700.03 ft., to a 60 D nail found in the top of a fence corner post in the south line of Lot 104 of said Heritage Oaks Section 2-A;

3) N 60 deg. 38' 24" E 1054.57 ft. to a 60 D nail found in top of a fence corner post at the most easterly southeast corner of Lot 109 of said Heritage Oaks Section 2-A;

4) N 11 deg. 16' 37" E 3008.40 ft. to a 1/2 inch iron rod found in the northeast line of said Bush (200 Acre) tract, being a point in the southwest line of Lot 24 of said Oak Run West, and being at the most northerly corner of said C.F. Bush Family Limited Partnership (186.61 Acre) tract, and being the most easterly corner of said 4-J Land Company tract, and being the most easterly corner of Lot 124 of said Heritage Oaks Section 2-A, and being the most northerly corner of this tract;

THENCE with the northeast line of said Bush (200 Acre) tract, the following three courses:

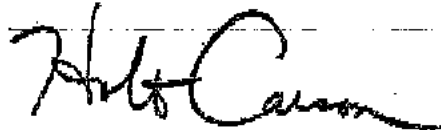
1) S 46 deg. 58' 20" E at 229.64 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 23 of said Oak Run West, and continuing on the same course 30.05 ft. more, for a total distance on this bearing of 259.69 ft., to a 60 D nail found at the base of a fence corner post;

2) S 50 deg. 34' 08" E at 147.83 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 22 of said Oak Run West and continuing on the same course 108.10 ft. more, for a total distance of 255.93 ft., to a 1/2 inch iron rod found;

3) S 50 deg. 40' 00" E at 461.95 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 19 of said Oak Run West, and continuing on the same course at 540.89 ft. passing a 1/2 inch iron rod found at the most southerly corner of Lot 16 of said Oak Run West, and continuing on the same course 441.13 ft more, for a total distance on this bearing of 1443.97 ft., to the Place of Beginning, containing 193.926 Acres of land.

SURVEYED: January 19, 2001

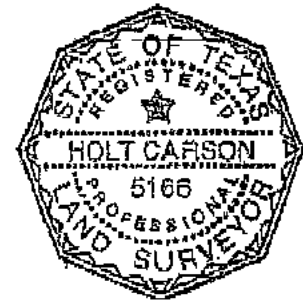
BY:



Holt Carson

Registered Professional Land Surveyor No. 5166

see accompanying map no. B596002a



**EXHIBIT "B"****BUSH RANCH  
Variances****Criteria (with reference to  
current Dripping Springs  
Subdivision Ordinance, if  
applicable)****Existing City  
Standards****Standards Approved for  
the Project**9.F.2.3 & 11.D.2 Approval-  
Preliminary Plat

6 Months

Life of Agreement

15.J.4. Street Frontage, minimum  
(at building line) of platted lotGeneral: 100 feet  
Cul-de-sac lot: 60 feetGeneral: 50 feet  
Cul-de-sac lot: 30 feet  
Flag lot: 20 feet15.J.6,7,8 Setbacks, Minimums  
Single Family Residential30' front; 10' side, 30'  
rear20' front; 20' rear; , 10'  
side with minimum 5' of  
separation on each side  
yard for conventional lots  
and a minimum of 10'  
separation between zero  
lot line structures.

**Criteria (with reference to current Dripping Springs Subdivision Ordinance, if applicable)**

**Existing City Standards**

**Standards Approved for the Project**

**Lot Density and Sizes:**

**Central Water/Central Sewer**

**Average Platted Lot Density**

**.75 acre per lot**

**No Change**

**Minimum Platted Lot Size**

**.5 acre**

**5,000 square feet**

**Central Water/Septic Tank**

**Average Platted Lot Density**

**1 acre per lot**

**No Change**

**Minimum Lot Size**

**.75 acre**

**½ acre**

**Minimum Lot Sizes in Buffer Zones**

**3 acres**

**Minimum of 1 acre and any such lot must contain at least ½ acre of land outside of the buffer zone. No Impervious Cover allowed in Buffer.**

COPY

**AGREEMENT BETWEEN CITY OF AUSTIN, HILL COUNTRY  
WATER SUPPLY CORPORATION AND LOWER COLORADO  
RIVER AUTHORITY FOR THE TERMINATION OF THE  
WHOLESALE WATER SERVICE CONTRACT BETWEEN THE  
CITY OF AUSTIN AND HILL COUNTRY WATER SUPPLY  
CORPORATION**

This Agreement for the Termination of the Wholesale Water Service Contract Between the City of Austin and Hill Country Water Supply Corporation ("Agreement") is entered into by and between the CITY OF AUSTIN ("the City"), HILL COUNTRY WATER SUPPLY CORPORATION ("Hill Country") and the LOWER COLORADO RIVER AUTHORITY ("LCRA").

**RECITALS**

- A. The City and Hill Country entered into the Wholesale Water Service Contract Between the City of Austin and Hill Country Water Supply Corporation dated September 28, 1990 ("Wholesale Agreement") for the provision of wholesale water services for a term of twenty-five years with a termination clause allowing for early termination of the Wholesale Agreement by mutual agreement or at the option of either party by giving thirty-six months written notice to the other party. The Wholesale Agreement has been amended from time to time.
- B. LCRA and Hill Country entered into the Agreement for Acquisition of Water System dated September 6, 2002 for the sale of the Hill Country water system assets to LCRA.
- C. Hill Country seeks the early termination of the Wholesale Agreement in order to expedite LCRA's acquisition of Hill Country's water system assets.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Hill Country and LCRA agree as follows:

**ARTICLE I  
TERMINATION OF THE WHOLESALE AGREEMENT AND PAYMENT TO  
THE CITY**

- 1. The City and Hill Country agree to terminate the Wholesale Agreement effective January 9, 2004, or other date as expressly provided in this Agreement ("Termination Date"), subject to: (a) approval by the members of Hill Country of the sale of the Hill Country water system to LCRA in accordance with Hill

Y903

Country's Bylaws; and, (b) closing of the sale of the Hill Country water system to LCRA by the Termination Date.

2. LCRA shall pay to the City one million dollars (\$1,000,000.00) on the Termination Date in consideration for the City's agreement for the early termination of the Wholesale Agreement. This payment is agreed by the parties to be sufficient for the City's revenue losses due to the early termination of the Wholesale Agreement. The City agrees that following said termination, upon Hill Country satisfying any remaining debt or liability under the Wholesale Agreement, the City shall not bring any claim against either LCRA or Hill Country or its directors or employees for breach of or default under the Wholesale Agreement.
3. The City, LCRA and Hill Country agree that LCRA shall acquire the assets of Hill Country prior to the disconnection of Hill Country from the City's water supply. The City agrees to fully cooperate in the disconnection from the City's water system. LCRA agrees that the City shall not pay for any cost related to the disconnection from the City's water system. LCRA agrees to abide by City policies and procedures related to the disconnection project including the City's approval of design plans for the disconnection in which such plans have been designed in accordance with City standards and specifications. The City agrees to review and provide comments to LCRA no later than 30 days after receipt of the disconnection plans. LCRA agrees to notify the City 10 days prior to the disconnection. LCRA agrees to provide the City a copy of the as-built plans, at no cost to the City, no later than 30 days from the Termination Date. LCRA agrees that the City may seek all legal remedies for any damages to the City's water system caused by LCRA or its agents in relation to the disconnection. LCRA agrees to list the City as an additionally insured for any contractor hired by LCRA related to the disconnection project.
4. The City further agrees not to protest any proceedings before the Texas Commission on Environmental Quality, or its successor agency ("Commission"), regarding the sale and transfer of Hill Country's water system assets, including the certificate of convenience and necessity, to LCRA.
5. In the event the sale of the Hill Country water system assets to LCRA is delayed as a result of proceedings before the Commission or any court of competent jurisdiction that are beyond the control of the City, Hill Country and/or the LCRA to resolve, the Termination Date shall be extended until such time as LCRA is authorized by the Commission or court to proceed with the acquisition of the water system assets of Hill Country. LCRA and Hill Country agree to diligently pursue all necessary authorizations for the sale of the Hill Country water system assets to LCRA. LCRA and Hill Country agree that the City is not responsible for pursuing any necessary authorizations for the sale of the Hill Country water system assets to LCRA. LCRA, the City, and Hill Country agree that if the sale of the Hill Country water system to LCRA is delayed, all of the provisions of the

Wholesale Agreement are in full force and effect, and Hill Country is considered to be in good standing by the City, until the delay is resolved. LCRA agrees that any such delay does not affect LCRA's payment to the City on the Termination Date. The City, Hill Country and LCRA agree that they shall cooperate in good faith, to the extent possible, toward the resolution of any such delay and shall negotiate in good faith toward the extension of this Agreement in the event such delay cannot be resolved.

6. Notwithstanding any provision of this Agreement to the contrary, in the event closing on LCRA's acquisition of the Hill Country system does not occur within twenty-four months of the execution of this Agreement by reason of default by LCRA or for any other reason, including actions pending before the Commission or a court of competent jurisdiction, this Agreement becomes void and automatically terminates and the Wholesale Agreement remains in full force and effect and in good standing.
7. Each party agrees that, notwithstanding any provision herein to the contrary, no party will unreasonably withhold or unduly delay any consent, approval, decision, determination or other action which is required or permitted under the terms of this Agreement, it being agreed and understood that each party shall act in good faith and shall at all times deal fairly with the other party.
- \* 8. In the event LCRA acquires the Hill Country system, LCRA agrees to take the following steps in the course of providing potable water service in the service area acquired from Hill Country: A) within the Hill Country service area, to the extent consistent with state law, LCRA will provide potable water service requested after LCRA acquires the Hill Country system to "New Development," as that term is defined in the May 2000 Memorandum of Understanding between the U.S. Fish and Wildlife Service ("FWS") and LCRA ("MOU"), only where the development \* complies with i) the September 1, 2000 document entitled U.S. Fish and Wildlife Service Recommendations for Protection of Water Quality of the Edwards Aquifer; ii) a regional plan incorporating water quality protection measures that FWS determines in writing to be consistent with the requirements of the Endangered Species Act; or, iii) a final plat approved by the City for development within its extraterritorial jurisdiction. Where New Development must comply with the requirements of subsections "i)" or "ii)" above, the LCRA shall, in each specific development project, seek to achieve the objective of "non-degradation" of water quality, and LCRA shall vigorously defend in good faith any judicial or legislative challenges to those requirements; B) LCRA will continue to encourage a regional planning process to develop water quality protection measures in northern Hays County, including the Hill Country service area; C) LCRA will provide conservation education and will evaluate potential incentives with water customers to promote water conservation, such as conservation rates and rainwater harvesting incentives; and, D) LCRA, at its own expense, has mapped habitat of the golden-cheeked warbler and black-capped vireo in the Hill Country service area, and LCRA will provide information regarding said habitat



to owners of unimproved properties within the Hill Country service area located within said habitat in accordance with the FWS biological opinion dated October 13, 2000.

9. If one party believes that another party is in default of any provision of this Agreement, the non-defaulting party will give written notice to the other party, specifying the event of default and extending the defaulting party 30 days to cure the default. This 30-day period for notice and opportunity to cure must pass before the non-defaulting party may initiate any remedies available to the non-defaulting party due to an alleged default. The non-defaulting party must mitigate any direct or consequential damages arising from any default to the extent reasonably possible under the circumstances. The parties agree that they will use good faith and reasonable efforts to resolve any dispute by Agreement, which may include engaging in non-binding arbitration, mediation or other alternative dispute resolution methods as recommended by the laws of the State of Texas, before initiating any lawsuit to enforce their respective rights under this Agreement. If the default is not cured during the 30-day period, the non-defaulting party may pursue all remedies, at law or in equity, that it deems appropriate to redress such default. Nothing in this Agreement will be construed to limit either party's right to recover damages or seek other appropriate curative remedies if a non-defaulting party files a breach of contract action relating to this Agreement. Nothing herein shall be construed as a waiver of a party's right to seek emergency relief in the event of an emergency nor waiver of the rights of a party existing under the laws of the State of Texas. Venue for any action arising hereunder shall be in Travis County, Texas.
10. To the extent allowed by law, the parties agree to hold the other parties, their officers, directors and employees, harmless from and against any claims filed by third parties against one or more of the parties to this Agreement relating to the commitments made or actions contemplated by this Agreement.
11. By their execution hereof, each of the undersigned parties represents and warrants to the parties to this document that he or she has the authority to execute the document in the capacity shown on this document. The effective date of this agreement will be January 31, 2003.

CITY OF AUSTIN, TEXAS

By:

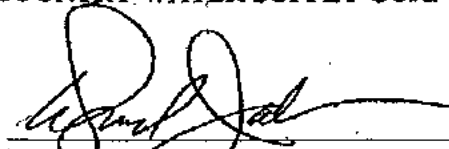


Toby Hammett Futrell  
City Manager



HILL COUNTRY WATER SUPPLY CORPORATION

By:

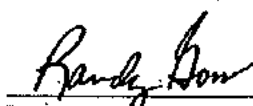


Donald "Jake" Jakubczak

President, Hill Country Water Supply Corporation

LOWER COLORADO RIVER AUTHORITY

By:

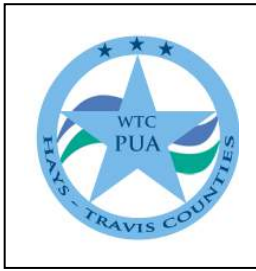


Randy J. Goss, P.E.

Executive Manager, Water and Wastewater Utility Services

(MS)





## **WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
Fax: 512/263-2289  
wtcpua.org

January 22, 2018

Ms. Lauren Winek  
CMA Engineering, Inc.  
235 Ledge Stone Drive  
Austin, TX 78737

Re: Service Availability  
Anthem at Ledge Stone Apartment Homes  
383 Rocky Ridge Trail  
Austin, TX 78737

Dear Ms. Winek:

The West Travis County Public Utility Agency (PUA) has completed its review of requested water service for two-hundred ninety-two (292) apartment units located in 11 buildings. The project will also have a club house, two pools, a maintenance building that includes a pet spa, surface parking areas, carports, and individual garages. Service Availability for sixty-seven (67) LUEs of water allocation is approved subject to the Applicant complying with the Service Extension Request (SER) Conditions below:

### **SER CONDITIONS**

1. The Applicant enters into a Non-Standard Water Service Agreement with the PUA for sixty-seven (67) LUEs of water service within three (3) months of the date of the letter. The 67 LUEs for the Proposed Development shall come from the maximum LUE allocation contained in the 2013 Compromise and Settlement Agreement between the Shaw Interests, DH1 and the PUA. All terms and conditions of the Compromise and Settlement Agreement shall apply to these 67 LUEs.
2. The Applicant completes the review process of technical plans associated with its proposed development, including submitting plans that meet PUA requirements for approval prior to release for construction. The Applicant shall also be required to pay all engineering review fees, legal fees and inspection fees associated with this process.
3. The Applicant constructs, at Applicant's sole cost and expense, all water service extensions of facilities necessary to facilitate retail service to the Property.
4. The PUA inspects and accepts the facilities per the approved construction plans and specifications.
5. The Applicant, at its sole cost and expense, grants to the PUA all on-site and off-site easements necessary for the PUA to own and operate the facilities in a form and manner acceptable to the PUA.

January 22, 2018

6. Prior to release of water meters for the Property, the applicant shall submit close out documents including final plat and executed and recorded easements per the attached list, as well as an executed Conveyance Agreement.
7. Customers applying for service in the Property will have to pay all fees including connection fees, impact fees per LUE, and meter drop in fees.
8. Applicant shall pay the PUA annual Water Reservation Fees as applicable per PUA Tariff.
9. The Applicant shall follow and comply with all applicable PUA Tariff, policies, rules and regulations pertaining to water service, as amended from time to time by the WTCPUA Board of Directors.
10. The Applicant will be required to secure a Legal Lot Determination from Hays County or secure an approved subdivision plat in Hays County, Texas for the Property within four (4) years from the date of this letter.
11. Provisions of water to the Property by the PUA shall become null and void if final construction plans have not been approved by the PUA for the Project within four (4) years from the date of this letter.
12. The Applicant shall adopt one of the alternative water quality measures required of the new development as specified in that certain "Memorandum of Understanding" between the LCRA and the United States Fish and Wildlife Service (USFWS), dated May 24, 2000 (MOU) and the "Settlement Agreement and Stipulation of Dismissal" from the lawsuit, Hays County Water Planning Partnership, et. al. vs. Lt. General Robert B. Flowers, U.S. Army Corps of Engineers, Thomas E. White, Secretary of the Army, Gale Norton, Secretary of the Department of the Interior, and the Lower Colorado River authority, W.D. Tex. 2002 (No. AOOCA 826SS) (Settlement Agreement) including:
  - a. Measures approved by the USFWS through separate Section 7 consultation, or other independent consultation;
  - b. TCEQ optional enhanced measures, Appendix A and Appendix B to RG-348; or
  - c. U.S. Fish and wildlife Service Recommendations for Protection of Water Quality of the Edwards Aquifer dated September 1, 2000;

Please be advised that conditions may change over time and the PUA will not reserve or commit water capacity to the Property until all conditions listed above are met. If, for any reason, that system capacity is exceeded prior to connection to the system, then this property is subject to a moratorium of any additional connections which may be declared. Also, please be advised that the PUA will not provide direct fire flow service to the Property and, as such, the Applicant may be required to install and maintain fire service facilities needed to meet local fire code regulations and requirements.

If you have any questions concerning this matter, please contact Judith A. Coker at 512-263-0100.

Sincerely,



Robert W. Pugh,  
General Manager

Ms. Lauren Winek, P.E.

Page 3

January 22, 2018

Cc: Reuben Ramirez  
Jennifer Smith  
Keli Kirkley  
Jennifer Riechers  
Judith Coker  
Pierce Powers  
Stephanie Albright, Lloyd Gosselink Rochelle & Townsend, P.C.  
Ronee Gilbert, Murfee Engineering Company, Inc.





## **WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
Fax: 512/263-2289  
wtcpua.org

December 20, 2017

Mr. Anthony E. Krempin, P.E., TKE Engineering  
c/o Brent Hammond  
Trepex Construction  
13115 Four Star Blvd  
Austin, TX 78737

Re: Service Availability  
Ledgestone Senior Living Phase Two  
13150 Four Star Blvd  
Austin, TX 78737

Dear Mr. Krempin:

The West Travis County Public Utility Agency (PUA) has completed its review of requested water service for fifty-nine (59) apartment units and one (1) restaurant in Ledgestone Senior Living. In addition, one hundred and twenty (120) apartment units from Phase 1 will be re-allocated to service with a restaurant. Accordingly, Service Availability for twenty-eight (28) LUEs of water allocation is approved subject to the Applicant complying with the Service Extension Request (SER) Conditions below:

### **SER CONDITIONS**

1. The Applicant enters into a Non-Standard Water Service Agreement with the PUA for twenty-eight (28) LUEs of water service within three (3) months of the date of the letter. The 28 LUEs for the Proposed Development shall come from the maximum LUE allocation contained in the 2013 Compromise and Settlement Agreement between the Shaw Interests, DH1 and the WTCPUA. All terms and conditions of the Compromise and Settlement Agreement shall apply to these 28 LUEs.
2. The Applicant completes the review process of technical plans associated with its proposed development, including submitting plans that meet PUA requirements for approval prior to release for construction. The Applicant shall also be required to pay all engineering review fees, legal fees and inspection fees associated with this process.
3. The Applicant constructs, at Applicant's sole cost and expense, all water service extensions of facilities necessary to facilitate retail service to the Property.
4. The PUA inspects and accepts the facilities per the approved construction plans and specifications.
5. The Applicant, at its sole cost and expense, grants to the PUA all on-site and off-site easements necessary for the PUA to own and operate the facilities in a form and manner acceptable to the PUA.

6. Prior to release of water meters for the Property, the applicant shall submit close out documents including final plat and executed and recorded easements per the attached list, as well as an executed Conveyance Agreement.
7. Customers applying for service in the Property will have to pay all fees including connection fees, impact fees per LUE, and meter drop in fees.
8. Applicant shall pay the PUA annual Water Reservation Fees as applicable per PUA Tariff.
9. The Applicant shall follow and comply with all applicable PUA Tariff, policies, rules and regulations pertaining to water service, as amended from time to time by the WTCPUA Board of Directors.
10. The Applicant will be required to secure a Legal Lot Determination from Hays County or secure an approved subdivision plat in Hays County, Texas for the Property within four (4) years from the date of this letter.
11. Provisions of water to the Property by the PUA shall become null and void if final construction plans have not been approved by the PUA for the Project within four (4) years from the date of this letter.
12. The Applicant shall adopt one of the alternative water quality measures required of the new development as specified in that certain "Memorandum of Understanding" between the LCRA and the United States Fish and Wildlife Service (USFWS), dated May 24, 2000 (MOU) and the "Settlement Agreement and Stipulation of Dismissal" from the lawsuit, Hays County Water Planning Partnership, et. al. vs. Lt. General Robert B. Flowers, U.S. Army Corps of Engineers, Thomas E. White, Secretary of the Army, Gale Norton, Secretary of the Department of the Interior, and the Lower Colorado River authority, W.D. Tex. 2002 (No. AOOCA 826SS) (Settlement Agreement) including:
  - a. Measures approved by the USFWS through separate Section 7 consultation, or other independent consultation;
  - b. TCEQ optional enhanced measures, Appendix A and Appendix B to RG-348; or
  - c. U.S. Fish and wildlife Service Recommendations for Protection of Water Quality of the Edwards Aquifer dated September 1, 2000;

Please be advised that conditions may change over time and the PUA will not reserve or commit water capacity to the Property until all conditions listed above are met. If, for any reason, that system capacity is exceeded prior to connection to the system, then this property is subject to a moratorium of any additional connections which may be declared. Also, please be advised that the PUA will not provide direct fire flow service to the Property and, as such, the Applicant may be required to install and maintain fire service facilities needed to meet local fire code regulations and requirements.

If you have any questions concerning this matter, please contact Pierce Powers at 512-263-0100.

Sincerely,



Robert W. Pugh,  
General Manager



Mr. Anthony E. Krempin, P.E.  
Page 3  
December 20, 2017

Cc: Reuben Ramirez  
Jennifer Smith  
Keli Kirkley  
Jennifer Riechers  
Judith Coker  
Pierce Powers  
Stephanie Albright, Lloyd Gosselink Rochelle & Townsend, P.C.  
Ronee Gilbert, Murfee Engineering Company, Inc.

## ITEM D



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## West Travis County Public Utility Agency Memorandum

---

TO: Board of Directors

FROM: Robert W. Pugh, General Manager

CC:

SUBJECT: CP and Y Effluent Modeling Services

DATE: May 17, 2018

---

On December 16, 2018, the Board of Directors executed a Non-Standard Service Agreement (NSSA) for the Backyard Project in Bee-Cave, which proposed to have an on-site power generation plant that could use an estimated 500,000 gallons of effluent per day. The effluent would come from a 12" effluent transfer line from Bohl's pond to Spillman pond which runs along the north side of Bee Cave Parkway. To date, only preliminary reviews have been completed on how the 12" line would be extended west of RM620 on Bee Cave Parkway to provide effluent delivery to this site, which is adjacent to Bee Cave City Park.

On November 1, 2013, the Board of Directors executed an (NSSA) for the Park at Bee Cave Project, which included a requirement that the PUA fund construction of necessary facilities to deliver effluent to the project site on the south side of RM620. At its December 18, 2017 meeting, the Board of Directors approved a professional services agreement with CP and Y, Inc. in the amount of \$43,970 for design, permitting and construction phase services to extend the 12" effluent line under RM620 to the Park at Bee Cave.

After further review, it was discovered that the 12" effluent transfer line from Bohl's pond to Spillman pond is only pressurized when the Bohl's transfer pumps are manually operating, which would be problematic to ensure continued effluent delivery to the Park at Bee Cave for irrigation. Further, due to the volume of effluent required

for the Backyard Project Power Plant, there were additional questions about the capacity of the transfer pumps and 12” effluent line to meet this potential demand.

Also, earlier this year, effluent delivery was established to the Gateway at Falconhead through our HOA pump skid and effluent lines in Spillman Ranch Community, which led to additional questions about the ability of that system to meet demand of future effluent customers served by that system.

Further, due to continuing challenges of disposing of effluent during the winter months, it was thought that it would be worthwhile to consider a feasibility study of extending effluent to Bee Cave City Park through the same 12” effluent transfer line that would serve the Backyard Project and the Park at Bee Cave.

Finally, the Beneficial Re-use project, which is estimated to convert approximately 500,000 gallons per day of effluent to potable drinking water through R.O. Treatment, is currently under TCEQ review through a TLAP Major Amendment. However, there is some uncertainty regarding the timing of approval of this project since it is a newer process and is required to go through an extensive public comment period.

CP and Y has proposed, and I and staff are recommending, effluent modeling services as follows to address the issues and needs above:

1. System wide effluent modeling, which includes developing a hydraulic model for the PUA’s existing effluent system for the purpose of reviewing existing system capacity and available capacity to serve future effluent customers, \$18,040.
2. Evaluating the feasibility of converting the existing 12-inch effluent transfer line from Bohl’s pond to Spillman pond to a pressurized effluent delivery line, \$18,870.
3. On-call effluent modeling services, where additional modeling services would be performed on an as-needed time and materials basis with a not to exceed price per project, to evaluate future customer connections, \$20,000 total budget.

Board of Directors

Page 3

May 17, 2018

CP and Y has also prepared additional (optional) services for Board consideration:

1. Feasibility study of extending effluent delivery to Bee Cave City Park, including evaluation of existing irrigation system, \$18,635.
2. Feasibility study of extending effluent delivery to the Backyard Project, \$10,400.

Thank you for your consideration.

# SCOPE OF SERVICES

## Work Order #4

### GENERAL

In accordance with the Engineering Services Agreement between West Travis County Public Utility Agency (Owner) and CP&Y, Inc. (Engineer), dated August 17, 2017, the Owner and Engineer agree as follows:

#### I. Specific Project Data

##### A. Title: **Effluent System Model Development**

B. Description: Basic Services include developing a hydraulic model for the Owner's existing effluent system for the purpose of reviewing existing system capacity and available capacity to serve future effluent customers. Services also include evaluating the feasibility of converting the existing 12-inch effluent line from Bohls to Spillman from a transfer line to a pressurized effluent delivery line capable of providing effluent service. Additional Services include evaluation of extending the effluent delivery system to Bee Cave City Park and the Backyard Project, and on-call effluent modeling services. Design, bidding and construction phase services, and TCEQ permitting are not included in this Scope of Work.

#### II. Basic Services

##### A. Effluent System Model Development

###### 1. Existing Data Review

- a. Engineer will review and assess available record drawings, GIS data, historical customer usage data, and historical pump performance data.
- b. Any elevations needed for this effort will be based on record drawings and topographic data provided by the Owner.

###### 2. Development of Existing Effluent System Model

- a. Engineer will develop a hydraulic model using InfoWater software for the existing effluent system from Lake Pointe WWTP, to Bohls WWTP, to Spillman Pond and the distribution system. Elevations, pump data and customer demands will be based on information provided by the Owner.
- b. Model will be calibrated based on field test data provided by the Owner.
- c. One (1) meeting is anticipated to discuss the details of the system operation for incorporation into the model.

###### 3. Deliverables:

- a. Calibrated InfoWater model.
- b. Written summary of existing system model, including figures showing model scenarios.

##### B. Bohls Transfer Line Effluent Delivery Evaluation

###### 1. Existing Data Review

- a. Engineer will review existing record drawings, effluent flow data, and existing control data related to the Bohls effluent transfer pumps.

###### 2. Feasibility Evaluation

- a. Utilizing the Effluent System Model developed in Task II.A, evaluate the feasibility of converting the existing 12-inch effluent line from Bohls to Spillman from a transfer line to a pressurized effluent delivery line capable of providing effluent service.
- b. Develop recommended improvements needed to convert the existing 12-inch effluent line from Bohls to Spillman to a pressurized effluent delivery line. It is anticipated that improvements will include modifications to the effluent transfer pump controls at Bohls.

- c. One (1) meeting is anticipated to visit the project site and discuss specific characteristics and operation of the existing effluent transfer pumps
- 3. Technical Memorandum
  - a. Engineer will utilize data gathered to prepare a Technical Memorandum summarizing the following:
    - i. Findings and recommendations
    - ii. Proposed control strategy and associated improvements
    - iii. Opinion of probable construction cost (OPCC) for proposed improvements
    - iv. Electrical one-line diagram
    - v. SCADA one-line diagram (if needed)
  - b. Perform QA/QC Review prior to submitting Technical Memorandum.

### III. Additional Services

The following services will only be performed by the Engineer if the Owner provides written authorization to proceed with each item as identified.

#### A. Bee Cave City Park Feasibility Study

- 1. Delivery Evaluation
  - a. Utilizing the Effluent System Model developed in Task II.A., evaluate delivery of effluent to Bee Cave City Park from existing effluent system. Usage rates will be based on the application volumes determined below, under Task III.A.4. Engineer will note system deficiencies, if any, encountered during the delivery evaluation as a result of the model update.
- 2. Preliminary Effluent Pipeline Alignment
  - a. Engineer will prepare schematic-level exhibit identifying proposed horizontal alignment of effluent extension from existing effluent line to City Park irrigation service/meter. Evaluation will include identification of easement needs, if any, for proposed alignment.
  - b. Evaluation will be based on available GIS data and record drawings provided by the Owner.
- 3. Proposed City Park Irrigation System
  - a. Engineer will review existing irrigation plans to determine improvements needed for effluent irrigation system within Park boundaries, from the proposed irrigation service/meter location identified in Task III.A.2. It is anticipated that the intent is to convert the current potable water irrigation system to a reclaimed water irrigation system.
- 4. Irrigation System Evaluation
  - a. Annual Operation and Maintenance (O&M) of Irrigation System: Following evaluation of proposed effluent pipeline and irrigation system, Engineer will develop an O&M schedule, including annual estimate of probable O&M costs.
  - b. Effluent Application Volumes: Engineer will review existing annual application volumes for the existing irrigation system and notify Owner of any anticipated changes to the proposed application rates. Evaluation will be based on the requirements of TCEQ Chapter 210 – Use of Reclaimed Water.
  - c. Evaluate and make recommendations of irrigation boundaries, times, and public access limitations when irrigating with reclaimed water.
- 5. Technical Memorandum
  - a. Engineer will utilize data gathered to prepare a Technical Memorandum summarizing the findings and recommendations, including opinion of probable construction cost (OPCC) for proposed improvements.
  - b. Perform QA/QC Review prior to submitting Technical Memorandum.
- 6. Meetings
  - a. One (1) meeting is anticipated during the Delivery Evaluation Phase to review and discuss alternatives prior to development of the Technical Memorandum. It is anticipated that the Owner and the City of Bee Cave will be present.

- b. One (1) meeting is anticipated following submittal of the Technical Memorandum to discuss Owner comments.
- B. Backyard Project Power Plant Feasibility Study
  - 1. Delivery Evaluation
    - a. Utilizing the Effluent System Model developed in Task II.A., evaluate delivery of effluent to Backyard Project Power Plant from existing effluent system. Owner to provide anticipated usage rates for Backyard Project Power Plant. Engineer will note system deficiencies, if any, encountered during the delivery evaluation as a result of the model update.
  - 2. Preliminary Effluent Pipeline Alignment
    - a. Engineer will prepare schematic-level exhibit identifying proposed horizontal alignment of effluent extension from existing effluent line to Backyard Project service/meter. Evaluation will include identification of easement needs, if any, for proposed alignment.
    - b. Evaluation will be based on available GIS data and record drawings provided by the Owner.
  - 3. Technical Memorandum
    - a. Engineer will utilize data gathered to prepare a Technical Memorandum summarizing the findings and recommendations, including opinion of probable construction cost (OPCC) for proposed improvements.
    - b. Perform QA/QC Review prior to submitting Technical Memorandum.
  - 4. Meetings
    - a. One (1) meeting is anticipated following submittal of the Technical Memorandum to discuss Owner comments.
- C. On-Call Modeling Services
  - 1. Upon written request from the Owner, Engineer will provide on-call modeling services for any requests for updates, maintenance, or additional scenarios to the Effluent System Model which are not included in Section II – Basic Services. Work performed as Additional Services will be paid on a Time and Materials basis for hours worked, according to the Rate and Fee Schedule included as Exhibit “B” of the Engineering Services Agreement dated August 17, 2017 between the Owner and Engineer.

#### IV. Owner’s Responsibilities

- A. Provide available record drawings, operating information and control descriptions for subject effluent lines and facilities, and other elements impacting the project.
- B. Provide any available utility, parcel and/or topographic mapping information of the project area.
- C. Provide any available GIS data for the subject effluent lines, water and wastewater lines, and elements impacting the project.
- D. Provide existing City Park irrigation system operation and maintenance records.
- E. Provide existing annual application water volumes for the existing City Park irrigation system.
- F. Provide existing or anticipated application quantities of effluent to each subject site included in the evaluation.
- G. Provide inspection records, rehabilitation history and cleaning records for subject effluent lines.
- H. Provide proposed effluent water pressure and available GPM at point of connection.
- I. Obtain any required data and information from franchise utility companies.
- J. Coordinate and provide engineer with access to project site as needed for the duration of design.
- K. Give prompt written notice to the Engineer whenever the Owner observes or otherwise becomes aware of any development that affects the scope of the Engineer’s services.
- L. Owner will be available on an as needed basis to answer questions, provide guidance and offer comment.
- M. Pay all fees associated with approvals and/or permits from entities when such approvals and/or permits are necessary as determined by the Owner.
- N. Pay for costs associated with newspaper public notice for bid advertisement, if needed.
- O. Assist with property owner coordination for Right-of Entry, if necessary.



V. Schedule

- A. Effluent System Model Development: 60 Calendar Days
- B. Bohls Transfer Line Effluent Delivery Evaluation: 60 Calendar Days
- C. Bee Cave City Park Feasibility Study: 35 Calendar Days (Draft TM), following Task II.A/B & NTP
- D. Backyard Project Feasibility Study: 35 Calendar Days (Draft TM), following Task II.A/B & NTP

VI. Fee Schedule

- A. See attached.

Submitted by:

Accepted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**West Travis County PUA  
Effluent System Model Development  
Fee Schedule Summary**

**BASIC SERVICES**

Phase	Task Description	Total Cost
A	Effluent System Model Development	\$18,040.00
B	Bohls Transfer Line Effluent Delivery Evaluation	\$18,870.00
<b>TOTAL BASIC SERVICES</b>		<b>\$36,910.00</b>

**ADDITIONAL SERVICES**

Phase	Task Description	Total Cost
A	Bee Cave City Park Feasibility Study	\$18,635.00
B	Backyard Project Power Plant Feasibility Study	\$10,400.00
C	On Call Modeling Services (Time and Materials)	\$20,000.00
<b>TOTAL ADDITIONAL SERVICES</b>		<b>\$49,035.00</b>

<b>TOTAL BASIC SERVICES + ADDITIONAL SERVICES</b>	<b>\$85,945.00</b>
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**West Travis County PUA  
Effluent System Model Development**

Fee Schedule/Budget Detail

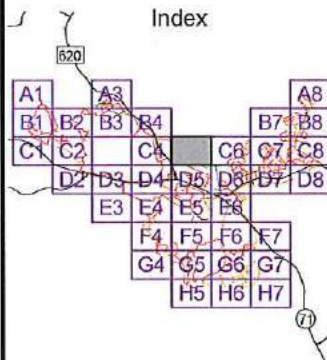
Project Phase	Task Description	Sr. Project Manager	Project Engineer	EIT	Sr. Technician	CP&Y Labor Hours	CP&Y Labor Costs	Subconsultant Costs (Landscape Architect)	Total Cost
		\$190.00	\$130.00	\$95.00	\$90.00			*See Attached	
BASIC SERVICES									
A.	Effluent System Model Development								\$ 18,040.00
A.1.	Existing Data Review	2	4	8	0	14	\$ 1,660.00	\$ -	
A.2.	Development of Existing Effluent System Model	24	40	24	12	100	\$ 13,120.00	\$ -	
A.3.	Deliverables	2	8	8	12	30	\$ 3,260.00	\$ -	
B.	Bohls Transfer Line Effluent Delivery Evaluation								\$ 18,870.00
B.1.	Existing Data Review	2	0	2	0	4	\$ 570.00	\$ -	
B.2.	Feasibility Evaluation	16	40	20	12	88	\$ 11,220.00	\$ -	
B.3.	Technical Memorandum	8	20	16	16	60	\$ 7,080.00	\$ -	
BASIC SERVICES TOTAL									\$ 36,910.00
ADDITIONAL SERVICES									
A.	Bee Cave City Park Feasibility Study								\$ 18,635.00
A.1.	Delivery Evaluation	8	12	8	4	32	\$ 4,200.00	\$ -	
A.2.	Preliminary Effluent Pipeline Alignment	2	4	2	4	12	\$ 1,450.00	\$ -	
A.3.	Proposed City Park Irrigation System	1	2	2	4	9	\$ 1,000.00	\$ 1,275.00	
A.4.	Irrigation System Evaluation	1	4	4	0	9	\$ 1,090.00	\$ 1,895.00	
A.5.	Develop Technical Memorandum	2	8	12	8	30	\$ 3,280.00	\$ 2,165.00	
A.6.	Meetings	4	4	0	0	8	\$ 1,280.00	\$ 1,000.00	
B.	Backyard Project Power Plant Feasibility Study								\$ 10,400.00
B.1.	Delivery Evaluation	8	12	8	4	32	\$ 4,200.00	\$ -	
B.2.	Preliminary Effluent Pipeline Alignment	2	4	8	4	18	\$ 2,020.00	\$ -	
B.3.	Technical Memorandum	2	8	8	8	26	\$ 2,900.00	\$ -	
B.4.	Meetings	4	4	0	0	8	\$ 1,280.00	\$ -	
C.	On Call Modeling Services (Time and Materials)						\$ 20,000.00	\$ -	\$ 20,000.00
ADDITIONAL SERVICES TOTAL									\$ 49,035.00
		88	174	130	88	480	\$ 79,610.00	\$ 6,335.00	\$ 85,945.00

**Bee Cave Central Park Effluent Delivery Evaluation**

Design Consultant: MWM DesignGroup, Inc.							
Date: 2/13/2018		<b>Principal</b>	<b>LP III / PM III</b>	<b>LP II / PM II</b>	<b>Eng Support I</b>	<b>Sub-total Man-hours</b>	<b>Design Subtotal</b>
Billing Rate per Hour		\$260.00	\$195.00	\$155.00	\$90.00		
Task No.	Task Description						
1	<b>Central Park Irrigation</b>						
	Review requirements for conversion of existing system	-	-	2	6	8	\$ 850.00
	Review O&M and provide recommendations	-	-	4	2	6	\$ 800.00
	Review water demand and provide recommendations	-	-	2	4	6	\$ 670.00
	Prepare opinion of Cost	-	-	2	6	8	\$ 850.00
	Delivery/Coordination	1	1	16	4	22	\$ 3,165.00
<b>MWM TOTAL</b>		<b>1</b>	<b>1</b>	<b>26</b>	<b>22</b>	<b>50</b>	<b>\$ 6,335.00</b>



West Travis County  
Regional Wastewater  
Map Book  
May 2013



Legend

- Cleanout
- Reducer
- WetWell
- Air Release Valve
- Blowoff Valve
- Gate
- GrinderPump
- Manhole
- Force Main
- Effluent Main
- Gravity Main
- Service Line
- Lift Station
- WWTP
- Parcels





## **ITEM E**



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**West Travis County Public Utility Agency  
Memorandum**

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TO: Board of Directors

FROM: Robert W. Pugh, General Manager

CC:

SUBJECT: Springhollow MUD Agreement for Billing and Disconnection of Retail Water Services

DATE: May 17, 2018

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Pursuant to Section 2.6 of the WTCPUA's (PUA) "Agreement for the Provision of Non-Standard Retail Water Service" with HM Parten Ranch, LP, a Texas limited partnership for Parten Ranch in Hays County Texas:

"The Developer will be responsible for arranging for wastewater service to the Development, and the WTCPUA shall have no obligation to provide retail or wholesale wastewater service. All wastewater service shall be provided in strict accordance with all applicable wastewater rules, regulations and provisions promulgated by Hays County, Texas; the TCEQ and any other agency of the State of Texas with jurisdiction; and the U.S. Environmental Protection Agency. If Developer creates a District to provide retail wastewater service within the Development, the WTCPUA and the District may enter into a billing services agreement under which the WTCPUA provides consolidated billing, collection and other customer services to District wastewater customers located within the boundaries of the Development. Any such wastewater billing services agreement will, among other things, provide for compensation by the District of the costs and expenses incurred by the WTCPUA to provide such services.

Springhollow MUD was created, in part, to provide wastewater services for the Parten Ranch Development. The Developer and Springhollow MUD have expressed a

desire for the PUA to provide billing and field services to Parten Ranch per the attached Agreement. The Agreement is identical to an existing Agreement between Hays MUD 5 and WTCPUA, which provides for billing and field services in the Highpointe Development, except for higher prices for field services in Parten Ranch.

Under the Agreement, the PUA will be providing District customers wastewater service application forms, monthly water meter readings to facilitate District wastewater billing, and a monthly report of new customer water connections. Field services include disconnection of water service for District customers who do not pay their wastewater bills.

After discussion with staff, we are comfortable that the monthly base fee of \$400, \$100 fee for monthly reporting, and fees for field services will more than cover our administrative and operational costs for this Agreement. Accordingly, staff is willing to perform the services. Although such services are not required as part of the Parten Ranch Agreement, it was understood at the time of execution by both parties that the PUA would be willing to provide such services.

Thank you for your consideration.



## **AGREEMENT FOR BILLING AND DISCONNECTION OF RETAIL WATER SERVICES**

This Agreement for Billing and Disconnection of Retail Water Services (the "**Agreement**") is entered into effective as of June 1, 2018 (the "**Effective Date**"), between **West Travis County Public Utility Agency**, ("**WTCPUA**"), and **Springhollow Municipal Utility District**, a political subdivision of the State of Texas, operating under Chapters 49 and 54 of the Texas Water Code (the "**District**"). The parties to this Agreement are sometimes individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

### **RECITALS**

- A. The District was created and functions under Chapters 49 and 54 of the Texas Water Code in order, among other things, to provide wastewater treatment and disposal services to residents and property owners within the District's boundaries.
- B. WTCPUA provides retail water services to customers located within the District's boundaries to the property now commonly known as "Parten Ranch", containing 547 acres of land, more or less, in Hays County, Texas, and more fully described or depicted on the attached **Exhibit "A"** (the "**Retail Area**").
- C. WTCPUA has administrative and field personnel who can collect tap fees and other fees and charges of WTCPUA for water service, read customer water meters, and prepare monthly bills for WTCPUA's water customers.
- D. The District has requested, and WTCPUA is willing to provide, certain WTCPUA billing information on its retail water customers within the Retail Area for the District's use in billing its wastewater customers.
- E. The District has further requested that, pursuant to Texas Water Code §13.250(b)(2) and 30 Texas Administrative Code, 291.88(e), WTCPUA agree to disconnect retail water services to any customer of the District who has not paid that same customer's retail wastewater service charges to the District or complied with the District's wastewater connection requirements for service within the Retail Area.
- F. WTCPUA is willing to provide these requested services on the terms and conditions set forth in this Agreement.
- G. Each Party represents and warrants to the other Party that the following are true, accurate and complete as of the Effective Date:
  - (1) The Party has full right and authority to enter into this Agreement and to consummate the transaction described in this Agreement;
  - (2) This Agreement constitutes the valid and legally binding obligations of the Party and is enforceable against the Party in accordance with its terms; and

- (3) Neither the execution nor delivery of this Agreement nor the performance of each Party's obligations under this Agreement violates, or will violate, any contract or agreement to which each Party is a party or by which each Party is otherwise bound.

## **AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, it is mutually covenanted and agreed by the Parties as follows:

### **ARTICLE I.** **SERVICES AND COMPENSATION**

1.1 WTCPUA will perform the following services during the term of this Agreement:

- a) District Application Forms. WTCPUA agrees to provide each retail water customer within the Retail Area with any District wastewater services application and/or agreement that the District may provide to WTCPUA (the "WW Application"). The District agrees to give WTCPUA at least 15 days prior written notice of any change in its WW Application or its tariff or rate schedule for wastewater services (the "Tariff").
- b) Disconnection Services. WTCPUA will disconnect water service to a retail water customer of WTCPUA within the Retail Area for non-payment of a District wastewater bill or if the customer is not in compliance with the Tariff or the WW Application. WTCPUA agrees that it will not reconnect service to any delinquent or non-compliant customer until all amounts due and owing to the District are paid by such customer. The WTCPUA agrees that it will only reconnect service to any delinquent or non-compliant customer on the date and during the times specified in writing by the District or the District's authorized representative. By execution of this Agreement, the District authorizes WTCPUA to terminate water services to any District customer to whom the District provides written notice that payment is past due, or that the customer is not in compliance with the Tariff or the WW Application, and who fails to provide payment of past-due charges, or take actions necessary to comply with the Tariff or the WW Application, within the period provided in the written notice.

1.2 Billing Reports. WTCPUA agrees to provide the District with the following monthly reports:

- a) A report showing all new water connections made or new service at an existing water connection, including the date, the customer name and service address. The report will also confirm that the WW Applications were received for each new connection or new service.
- b) A report showing the water meter reading for each water customer within the Retail Area during the prior billing period by customer name and service address.
- c) The reports will be sent to the District by fax or electronic mail by the 5<sup>th</sup> business day after the end of each month to the following contact:

Crossroads Utility Services, L.L.C.  
Attention: Robert Anderson  
2601 Forest Creek Drive  
Round Rock, Texas 78665  
Phone: (512) 246-5918  
Fax: (512) 740-0010  
Email: randerson@crossroadsus.com

1.3 Excluded Services. All services not specifically identified in Sections 1.1 through 1.2 of this Agreement are excluded from this Agreement.

1.4 Compensation. As compensation for the performance of the services to be performed by WTCPUA under this Agreement, the District will pay WTCPUA the following sums:

- a) A flat fee in the amount of \$400 per month.
- b) \$100 per month for the provision of the billing report as set forth in Section 1.2 above.
- c) For service disconnections or reconnections for past due amounts for wastewater bills or other charges due to the District only:
  - (i) Disconnection fee of \$125 for 5/8" or 3/4";
  - (ii) Disconnection fee in the amount of the actual, reasonable cost to the WTCPUA for meters larger than 3/4";
  - (iii) Reconnection fee of \$65 during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday); and
  - (iv) Reconnection fee of \$185 during weekends or after normal business hours (after 5:00 p.m. and before 8:00 a.m. Monday through Friday).

All compensation, fees and charges are subject to modification by the WTCPUA to ensure adequate coverage of the cost of the services described herein; provided, however, that any such increase shall not exceed 3% annually. The WTCPUA will notify the District of any modifications no later than 90 days prior to the effective date of the change.

1.5 Additional Services and Charges. If the District requests additional services not included in this Agreement, the Parties will agree in advance by separate agreement on the terms of and payment for such services.

1.6 Payment and Billing Terms. WTCPUA will invoice the District for all compensation required under this Agreement. The District agrees to make the required payments to WTCPUA by check or bank wire on or before the due date specified on the invoice, which will be no sooner than 30 days from the date of the invoice, or if no due date is specified, on or before 30 days from the date of the invoice. Payments will be mailed to the address indicated on the invoice, or can be hand-delivered to WTCPUA's headquarters in Bee Cave, Texas,

upon prior arrangement or wired to WTCPUA pursuant to separate arrangement. If payments will be made by bank wire, the District will verify wiring instructions with WTCPUA's finance department or bookkeeper. Payment must be received by WTCPUA by the due date in order not to be considered past due or late. In the event payment is not received by the due date, the District will then pay a one-time late payment charge of 5% of the unpaid balance of the invoice.

## **ARTICLE II.**

### **LIABILITY**

- 2.1 **Hold Harmless.** WTCPUA will not be liable or responsible for, and will be saved and held harmless by the District, to the extent provided by law, from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, directly or indirectly, the performance of the services as described in this Agreement, except to the extent such claims of damages arise from WTCPUA's breach of this Agreement, or the claimed gross negligence, strict liability, or willful misconduct of WTCPUA. In the event WTCPUA is sued for any such matter or claim, it will provide a copy of the petition to the District. In the event a conflict arises between the interests of WTCPUA and the District in connection with any such litigation, then the District may retain separate legal counsel.

## **ARTICLE III.**

### **MISCELLANEOUS TERMS AND CONDITIONS OF THE AGREEMENT**

- 3.1 **Term of Agreement.** The term of this Agreement will begin on the Effective Date and will remain in effect until the expiration of one year from the Effective Date. The Agreement will automatically renew for up to four additional one-year terms unless either Party provides the other Party with written notice of termination, at least 60 days in advance of the applicable termination date. In addition, each party may terminate this Agreement at any time by providing not less than 120 days prior written notice of termination to the other Party
- 3.2 **Assignment.** This Agreement will be binding upon and inure to the benefit of the Parties, their successors and assigns. This Agreement will not be assignable by either Party without prior written approval by the other Party.
- 3.3 **No Oral Modification.** This Agreement may not be modified or amended, except by an agreement in writing signed by the authorized representatives of the Parties.
- 3.4 **No Oral Waiver.** The Parties may waive any of the conditions contained in this Agreement or any of the obligations of the other Party, but any such waiver will be effective only if in writing and signed by the authorized representative of the Party waiving such conditions or obligations.
- 3.5 **Total Agreement.** This Agreement constitutes the entire agreement among the Parties pertaining to the subject matter of this Agreement and supersedes all prior and

contemporaneous agreements and understandings of the Parties in connection therewith. No representation, warranty, covenant, agreement or condition not expressed in this Agreement will be binding upon the Parties or will affect or be effective to interpret, change or restrict the provisions of this Agreement.

- 3.6 Partial Invalidity. If any clause or provision of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms of this Agreement, then and in that event, it is the intention of the Parties that the remainder of this Agreement will not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable such that the intention of the Parties is effected as closely as is possible.
- 3.7 Counterpart Execution. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It will not be necessary that the signature of all persons required to bind any Party appear on each counterpart. All counterparts will collectively constitute a single instrument. It will not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of or on behalf of, each Party.
- 3.8 Holidays. In the event that the date upon which any duties or obligations hereunder to be performed occurs upon a Saturday, Sunday or legal holiday, then, in such event, the due date for performance of any duty or obligation will automatically extended to the next succeeding business day.
- 3.9 Governing Law and Forum. THIS AGREEMENT WILL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS.
- 3.10 Authorized Representatives and Addresses. Any deliveries made under this Agreement will be effective on the date of delivery if forwarded to a Party by hand-delivery to the address of the Party indicated below. Written notices given under this Agreement will be effective on the date of actual receipt if: (i) forwarded to a Party by hand-delivery to the address of the Party indicated below; (ii) transmitted to a Party by confirmed telecopy to the address of the Party indicated below; or, (iii) deposited with the U.S. Postal Service, postage prepaid, to the address of the Party indicated below. Either Party may notify the other Party of changes in address or authorized representatives by written notice given in accordance with this Agreement.

To the District:      Springhollow Municipal Utility District  
                                 c/o Sue Littlefield  
                                 Armbrust & Brown, PLLC  
                                 100 Congress Avenue, Suite 1300  
                                 Austin, Texas 78701  
                                 Fax: (512) 435-2360

To WTCPUA: West Travis County Public Utility Agency  
Attn: General Manager  
12117 Bee Cave Rd., Bldg. 3, Ste. 120  
Austin, TX 78738  
(512)263-0100

[SIGNATURE PAGES FOLLOW]

**SPRINGHOLLOW MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_, President

**ATTEST:**

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

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

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

**WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

By: \_\_\_\_\_  
Scott Roberts, President  
Board of Directors

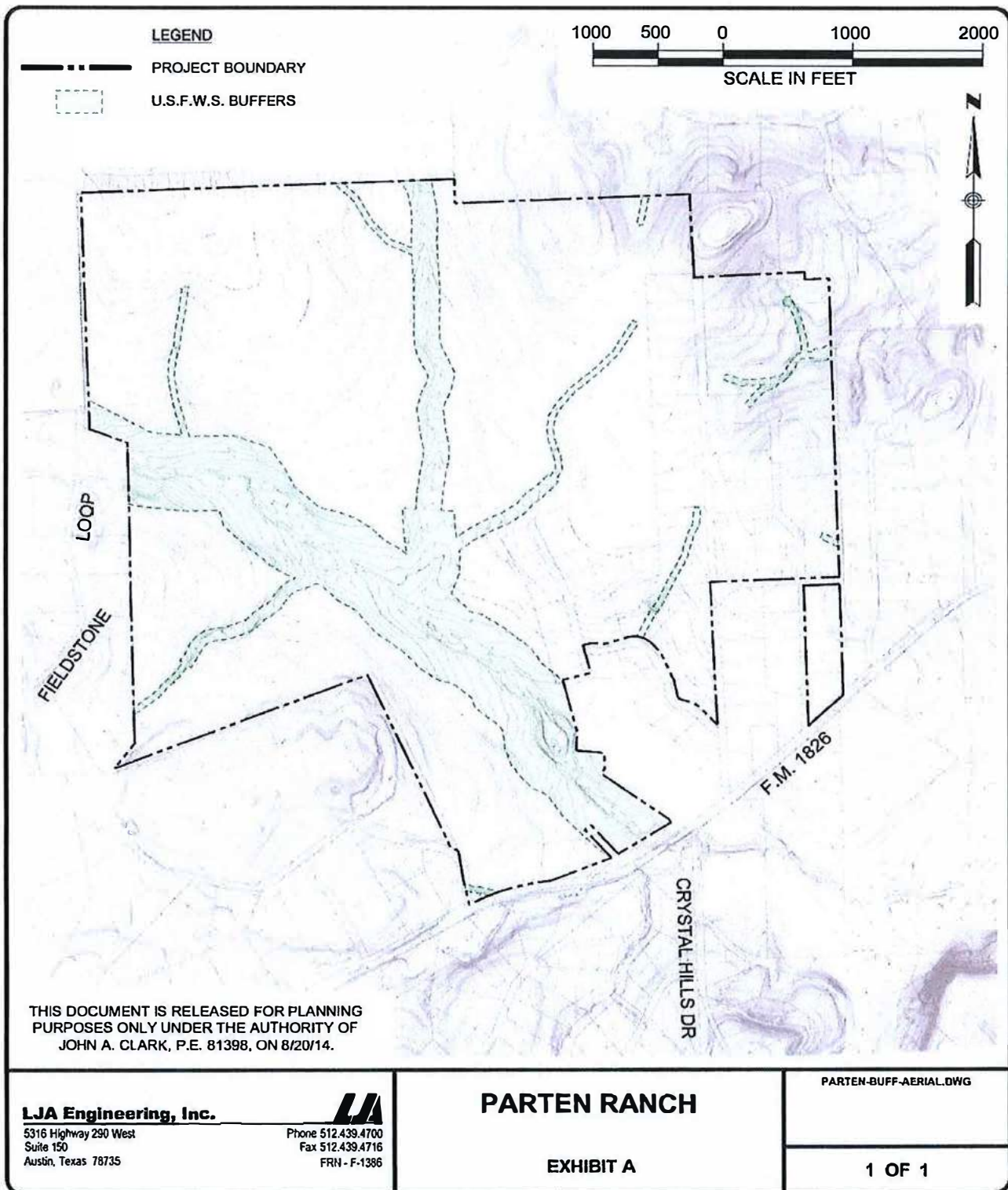
**ATTEST:**

By: \_\_\_\_\_  
Ray Whisenant, Secretary  
Board of Directors



## EXHIBIT "A"

### RETAIL AREA



## **ITEM H**



## **WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738  
Office: 512/263-0100  
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# MEMORANDUM

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Date: May 10, 2018  
To: Board of Directors – WTCPUA  
From: Trey Cantu – Operations Manager  
Re: Operational Matters

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### Reduction of electrical usage at PUA facilities

Per current PUA practice, electric cost savings are achieved through using the most efficient equipment available including pumps, motors, variable frequency drives, soft starts, motor control centers, (MCC) switchgear, HVAC and lighting. In general, for new or replacement installations, all equipment is properly sized for the design requirements intended.

Further, ongoing evaluation of existing electrical equipment is conducted, and replacement or upgrades scheduled through our CIP or Facilities Capital Plans to improve electric efficiency. Most electrical savings are achieved through replacement or upgrade of existing equipment to high efficiency equipment.

We currently have a five-year maintenance and repair plan for all of our major facilities including treatment plants, pump stations and lift stations where key assets such as pumps and motors are scheduled for maintenance or replacement.

The PUA has little or no control over electrical rates charged by its suppliers, Austin Energy and Perdenes Electric (PEC).

### Survey of maintenance and repairs of PUA lift station facilities

Lift stations are inspected at least monthly to ensure proper operation. Preventative maintenance per equipment manufacturers' recommendations is also performed to prevent costly repairs and ensure environmental compliance. Supervisors ensure that staff complete and document all maintenance and repair activities per established procedures to facilitate maximum lifespan of all facilities and equipment. Ongoing evaluation of electrical equipment is conducted and

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replacements or upgrades implemented to ensure optimal electrical efficiency, especially as part of the five year maintenance and repair plan.