

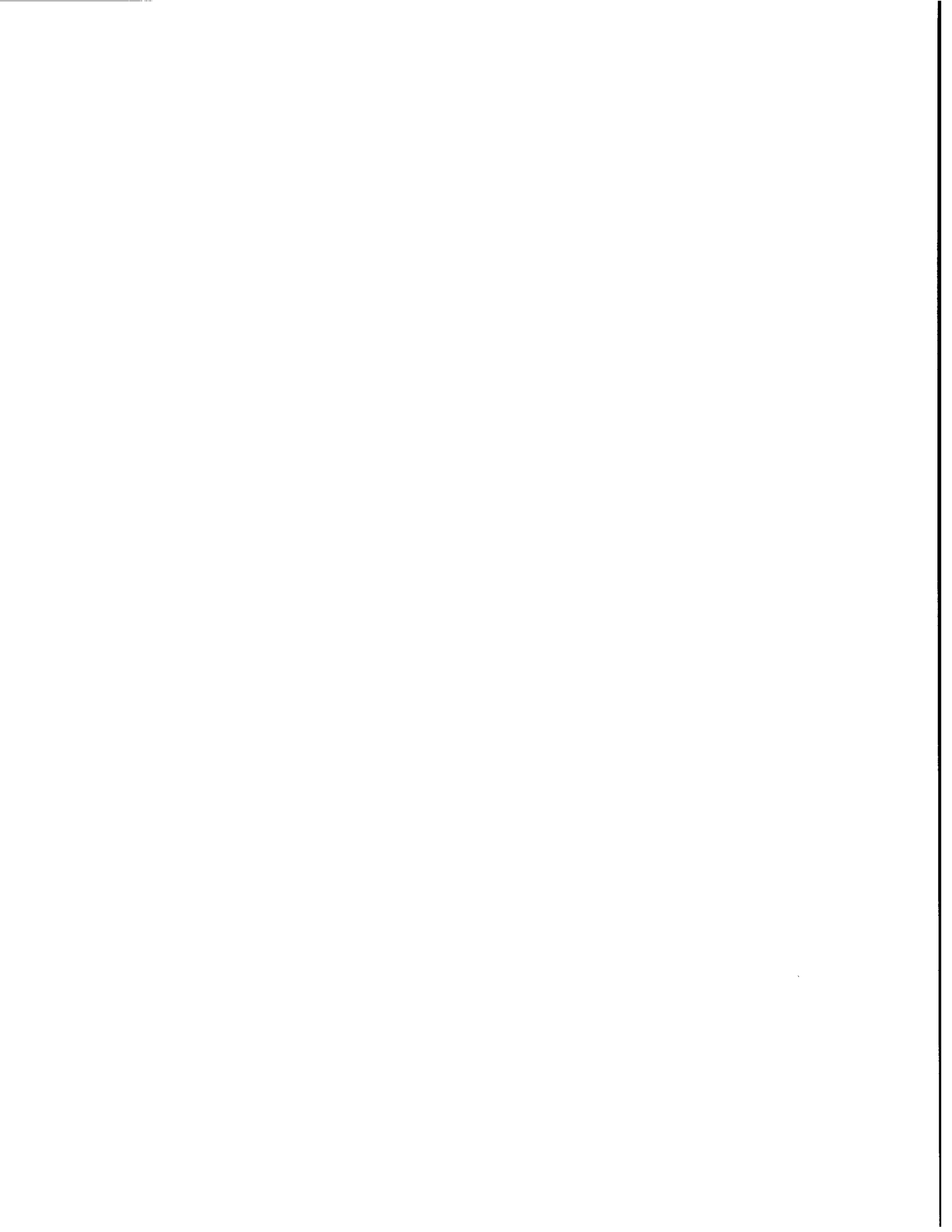


Control Number: 42920



Item Number: 9

Addendum StartPage: 0



PUC CONTROL NOS. 42919 AND 42920

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PUBLIC UTILITY COMMISSION  
CLERK

APPLICATION OF DOUBLE  
DIAMOND UTILITIES COMPANY  
FOR WATER AND SEWER RATE  
INCREASE

§  
§  
§  
§

BEFORE THE PUBLIC UTILITY  
COMMISSION OF TEXAS

**JOINT NOTICE OF SETTLEMENT,  
PETITION FOR WITHDRAWAL OF PROTESTS  
AND MOTION FOR REMAND**

Applicant, Double Diamond Utilities Company, and certain Protestants, as identified in the Settlement Agreement, which is attached hereto as Exhibit "A", and the authorizations attached as Exhibit "B", have settled their issues in the applications that are the subject of PUC Control Nos. 42919 and 42920 (formerly TCEQ Docket No. 2014-0619-UCR and TCEQ Application Nos. 37752-R and 37753-R)(the "Application") and request that State Office of Administrative Hearings ("SOAH") remand the case to the Public Utility Commission ("Commission") and that the Commission issue an order approving the Application as set forth in the Settlement Agreement.

As identified in the Application, The Retreat utility systems have 86 customers, and there were 39 customers who filed protest letters in this case. All but five of the individuals filing protests have agreed to withdraw their protests ("Settling Protestants"), resulting in less than 10% of The Retreat systems' customers having filed a protest and hearing request. The documents signed by Settling Protestants and others, which authorize the representatives of The Retreat Homeowners Group to settle this case and withdraw the protests, are attached as Exhibit "B".

The Settlement Agreement was executed by Double Diamond Utilities Company and the authorized representatives of The Retreat Homeowners Group. Jack McCartney of The Retreat Homeowners Group has authorized Double Diamond Utilities Company to file this Notice of Settlement and Withdrawal of Protests on behalf of The Retreat Homeowners Group and the Settling Protestants.

Therefore, Double Diamond Utilities Company and The Retreat Homeowners Group hereby request that the Public Utility Commission issue an order approving Double Diamond Utilities Company's Application for water and sewer rate increases as set forth in the attached Settlement Agreement.

9

Respectfully submitted,



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**JOHN J. CARLTON**  
State Bar No. 03817600  
The Carlton Law Firm, P.L.L.C.  
2705 Bee Cave Road, Suite 200  
Austin, Texas 78746  
Telephone: (512) 614-0901  
Fax: (512) 900-2855  
Attorney for Double Diamond Utilities Company

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was delivered via email, as agreed to by all parties, and via facsimile, via first class mail or by hand delivery on the 26<sup>th</sup> day of September, 2014.



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JOHN J. CARLTON

# EXHIBIT "A"

## SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is by and between Double Diamond Utilities, Co. ("DDU") and The Retreat Homeowners Group (TRHG) regarding DDU's water (Application No. 37752-R) and sewer (Application No. 37753-R) rate applications (the "Applications")

### RECITALS

WHEREAS, the TRHG members are homeowners within The Retreat Subdivision in Johnson County, Texas, who have protested the Applications; and

WHEREAS, DDU is an investor-owned, retail public water and sewer utility operating under state issued certificates of convenience and necessity, which provides retail water and wastewater utility service to The Retreat Subdivision and other areas; and

WHEREAS, on October 15, 2013, DDU filed a water rate/tariff change application with the Texas Commission on Environmental Quality ("TCEQ") (Application No. 37752-R); and

WHEREAS, on October 15, 2015, DDU filed a sewer rate/tariff change application with the TCEQ (Application No. 37753-R); and

WHEREAS, the TCEQ is the regulatory authority under Tex. Water Code § 13.042(e) having original jurisdiction over the water and sewer rates of DDU within The Retreat Subdivision, and

WHEREAS, DDU's rate change application to TCEQ affecting the water and wastewater rates charged in the The Retreat Subdivision was protested by the requisite number of customers to initiate proceedings on that application pursuant to Tex. Water Code §13.043; and

WHEREAS, TCEQ has referred the customers' appeal to the State Office of Administrative Hearings ("SOAH"), and

WHEREAS, TRHG and DDU mutually desire to resolve the dispute between them regarding water and sewer service, rates and other matters; and

WHEREAS, TRHG and DDU mutually desire to enter into this Agreement setting forth the terms and conditions pursuant to which TRHG and its members will agree to the Settlement Rates, and withdraw its protest of DDU's rate change applications at SOAH and the TCEQ, and DDU will agree to the Settlement Rates for The Retreat Subdivision and will agree to undertake certain other obligations as described herein.

NOW, THEREFORE, in consideration of the promises, mutual agreements, and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in settlement of disputed claims, TRHG and DDU hereby contract and agree as follows

**ARTICLE I.**  
**SETTLEMENT RATES**

1.1 TRHG and DDU agree to the Settlement Rates and terms set forth in Exhibit "A" for the period of July 1, 2014, through December 31, 2016. The Settlement Rates will be adopted as part of a stand alone tariff for the The Retreat Subdivision water and wastewater systems and will include a 12,000 gallons per month cap on sewer volumetric bills.

1.2 DDU will charge the Settlement Rates effective July 1, 2014, and will begin billing the Settlement Rates with its August bills, which are based on July consumption

1.3 DDU will not file an application that increases water and sewer rates and fees for The Retreat Subdivision before an effective date of January 1, 2017.

**ARTICLE II.**  
**MISCELLANEOUS**

2.1 No agreements other than this Agreement now exist between TRHG and DDU concerning the subject matter of this Agreement.

2.2 This Agreement shall be binding on the TRHG individual's (including their agents and representatives), DDU's Retreat Subdivision water and wastewater customers who authorized TRHG individuals to represent them in these matters ((Application No. 37752-R (water) and (Application No. 37753-R (sewer)) and DDU (including its officers, directors, employees, agents, and representatives) and shall be binding on and inure to the benefit of the successors and assigns of the respective parties to this Agreement

2.3 This Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof. No modifications of this Agreement shall be of any force or effect whatsoever, except as by subsequent modification in writing signed by the parties.

2.4 The provisions of this Agreement shall be governed by and construed and entered in accordance with the substantive laws of the State of Texas. Any action at law or in equity brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Travis County, Texas

2.5 In the event of a default hereunder by any Party, the other Party shall be entitled to seek damages, specific performance, injunctive relief, or any other remedy to which it might be entitled in law or equity.

2.6 If any provision in this Agreement shall for any reason be invalid, illegal or unenforceable in any respect, by the TCEQ or a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been continued herein and in lieu thereof shall be substituted a new provision (including new substitute settlement rates) that is as near to the intent of the parties without being invalid, illegal or unenforceable.

2.7 In the event any provision of this Agreement is challenged as unenforceable by the TCEQ or any other party, TRHG will cooperate and participate in the defense of this Agreement both before the TCEQ and, if necessary, in any related judicial action.

2.8 The parties hereto covenant and agree that they shall take necessary steps to assist in the adoption/approval of the Settlement Rates by the TCEQ and shall execute and deliver such other and further instruments and documents as are or may have come necessary or convenient to effectuate and carry out the interest of the Agreement.

2.9 This Agreement may be executed in multiple originals, either copy of which shall be considered an original

2.10 This Agreement shall be effective on the date of execution below.

2.11 The signatories hereto represent and affirm that they have the authority to execute and bind the Parties on whose behalf they sign below

2.12 The parties agree that nothing in this Agreement shall create any third party beneficiary rights for any persons

2.13 In the event of any suit between TRHG and DDU to enforce or interpret the terms of this Agreement, the prevailing Party shall recover its reasonable attorneys' fees and costs incurred in resolving the suit from the nonprevailing Party

2.14 Nothing in this Agreement may be used as an admission in any litigation or other contested matter, except to enforce the terms of this Agreement.


2.15 No party will be penalized for alleged authorship of a particular provision on judicial construction of this Agreement

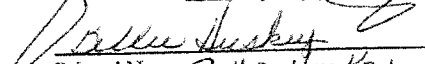
2.16 No Party to this Agreement shall initiate any litigation or arbitration challenging the validity or enforceability of any provision of this Agreement once it has been signed. The Parties reserve only their right to enforce the terms of this Agreement to the extent they are not fully performed by any other party.

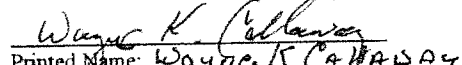
(signatures are on following page)

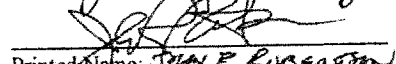
EXECUTED AND AGREED TO by the parties hereto this 30<sup>th</sup> day of June, 2014.

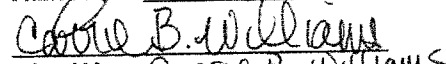
**THE RETREAT HOMEOWNERS GROUP**

  
Printed Name: JACK D. MCCARTNEY

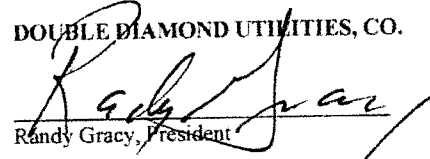
  
Printed Name: BILLIE HUSKEY

  
Printed Name: WAYNE K. CALLAWAY

  
Printed Name: STAN F. RUBENSON

  
Printed Name: CARRIE B. WILLIAMS

**DOUBLE DIAMOND UTILITIES, CO.**

  
Randy Gracy, President



**EXHIBIT A**  
**RATE SHEETS**  
**(see attached)**

Double Diamond Utilities, Inc. Water and Sewer Settlement Rates The Retreat
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	<u>Current</u>		<u>Settlement</u>	
<b>Water</b>				
<b>Meter Charge</b>				
3/4" or Less	\$	39.00	\$	49.60
1"		97.50		124.01
1 1/2"		195.00		248.02
2"		312.00		396.84
3"		585.00		744.07
<b>Volumetric Charge (per 1,000 gal)</b>				
0 - 3,000	\$	2.00	\$	2.54
3,001 - 10,000		2.75		3.50
10,001 - 15,000		3.80		4.83
15,001 - 20,000		5.25		6.68
20,001 +		7.25		9.22
<b>Sewer</b>				
<b>Meter Charge</b>				
3/4" or Less	\$	48.00	\$	67.12
1"		120.00		167.80
1 1/2"		240.00		335.59
2"		384.00		536.95
3"		720.00		1,006.78
<b>Volumetric Charge (per 1,000 gal)</b>				
0 - 3,000	\$	-	\$	-
3,001 - 12,000		8.00		11.19
12,001 +		8.00		-


**SETTLEMENT AUTHORIZATION**

Double Diamond Utilities, Inc. (DDU), the investor-owned, retail public water and sewer utility operating under state issued certificates of convenience and necessity provides retail water and wastewater utility service to property owners residing in The Retreat residential development (The Retreat) in Johnson County, Texas. On October 15, 2013, DDU filed a water rate/tariff change application (Application No. 37752-R) and a sewer rate/tariff change application (Application No. 37753-R) with the Texas Commission on Environmental Quality (TCEQ). The TCEQ is the regulatory authority under Texas Water Code § 13.042(e) having original jurisdiction over the water and sewer rates of DDU within The Retreat. Subsequently, I (We) the undersigned filed a written protest with TCEQ to DDU's water and sewer rate change applications pursuant to Texas Water Code §13.043

On February 25, 2014, DDU met with interested water and sewer customers at The Retreat to present information on the rate change applications. In the course of the presentation by DDU and an open discussion with those present, DDU indicated it was willing to enter into settlement negotiations to avoid a contested hearing. Following the presentation and discussion, those present agreed that a settlement with DDU should be pursued through a Committee of The Retreat Homeowners Group (TRHG), an interest group formed in response to previous DDU rate change applications. Operating Committee members were elected and directed to enter into settlement negotiations with DDU. Mutually agreeable settlement terms were negotiated and approved at a called meeting of residential customers from The Retreat on June 10, 2014. A Settlement Agreement was drafted by DDU and following review by TRHG Committee members was executed on June 30, 2014 and returned to DDU for execution and filing with TCEQ.

I (We) the undersigned, hereby authorize the duly elected TRHG Committee members Jack D. McCartney, Billie Huskey, Wayne K. Calloway, John P. Robertson, Jim Shakleford and Carrie B. Williams (an alternate member empowered to act in the absence of a regular member) to execute said settlement agreement with DDU and withdraw my (our) protest and hearing request regarding the water and sewer rate increases proposed in TCEQ Docket Number 2014-0619-UCR and Application Numbers 37752-R and 377523-R

  
Printed Name Robert P. Calloway

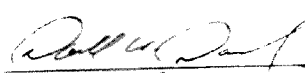
  
Printed Name Jim Cruey

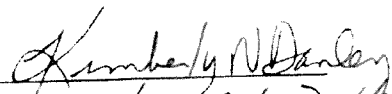
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Printed Name Darrell Dawley

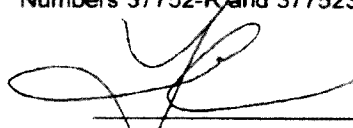
  
Printed Name Kimberly Dawson

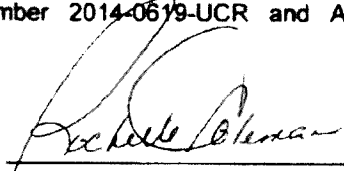
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Printed Name LARRY FARENVEY

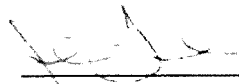
  
Printed Name Rochelle Coleman

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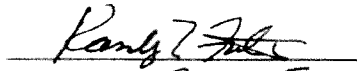
  
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Printed Name JOHN FISHER                      \_\_\_\_\_  
Printed Name \_\_\_\_\_

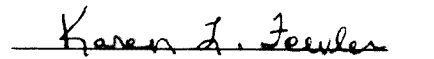
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Printed Name Randy T. Fowler

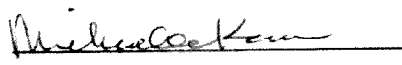
  
Printed Name Karen L. Fowler

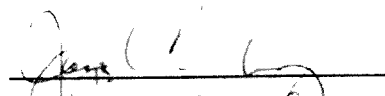
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Printed Name Michael Keard

  
Printed Name Joyce Cooksey



### SETTLEMENT AUTHORIZATION

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On February 25, 2014, DDU met with interested water and sewer customers from The Retreat to present information on the rate change applications. In the presence of a presentation by DDU and an open discussion with those present, DDU was willing to enter into settlement negotiations to avoid a contested hearing. In the presence and discussion, those present agreed that a settlement would be pursued through a Committee of The Retreat Homeowners Group. A committee interest group formed in response to previous DDU rate change applications. Committee members were elected and directed to enter into settlement negotiations with DDU. Mutually agreeable settlement terms were negotiated and presented at a called meeting of residential customers from The Retreat on June 10, 2014. A Settlement Agreement was drafted by DDU and following review by The Retreat members was executed on June 30, 2014 and returned to DDU for execution with TCEQ.

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Carla

Ryszard

Printed Name CARLA

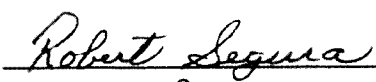
Printed Name Ryszard

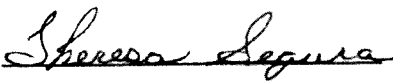
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Printed Name Robert Segura


  
Printed Name Theresa Segura


## SETTLEMENT AUTHORIZATION

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Printed Name Kevin Gaddis

  
Printed Name Angela Gaddis

## SETTLEMENT AUTHORIZATION

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Max Bryan Fitzhugh Brenda G Fitzhugh  
Printed Name MAX BRYAN FITZHUGH, Printed Name BRENDA G FITZHUGH

## SETTLEMENT AUTHORIZATION

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Printed Name MICHAEL HOLLENBECK Printed Name ANN HOLLENBECK


## SETTLEMENT AUTHORIZATION

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Printed Name WILLIAM SHARRATT

  
Printed Name Rebecca Sharratt

SETTLEMENT AUTHORIZATION

utility operating under state issued certificates of convenience and necessity provides residential development (The Retreat) in Johnson County, Texas. On October 15, 2013, TDU filed a Rate of Change Application (Application No. 37752-R) and a Rate of Change Application (Application No. 37753-R) with the Texas Commission on Environmental Quality (TCEQ). The TCEQ is the regulatory authority under Texas Water Code § 13.042(e) having original jurisdiction over the water and sewer rates of TDU within The Retreat. Subsequently, TDU the undersigned filed a written protest with TCEQ to TDU's water and sewer rate change applications pursuant to Texas Administrative Code §19.043.

On February 25, 2014, TDU met with interested water and sewer customers at The Retreat to discuss the proposed water and sewer rate change applications. In the course of the presentation by TDU, questions were discussed with those present. TDU indicated it was willing to enter into a settlement agreement with interested parties in a confidential hearing. Following the presentation and discussion, those present agreed that a settlement with TDU should be entered into. A committee of The Retreat Homeowners' Group ("THWG") and TDU representatives were formed and directed to enter into settlement negotiations. Following negotiations, a settlement agreement was reached and approved by a public hearing of interested customers. The settlement agreement was approved by TDU and the settlement agreement was granted by TCEQ and following review by the THWG, the settlement agreement was executed on June 30, 2014 and related to the settlement agreement with TCEQ.

I, the undersigned, hereby authorize the duly elected THWG Committee members Jack D. McCartney, Billie Huskey, Wayne K. Calloway, John P. Robertson, Jim [unclear] and [unclear] to execute said settlement agreement with TDU and to file said protest and hearing request regarding the water and sewer rate change applications Numbers 37752-R and 37753-R.


[Signature] Carrie B Williams  
[Signature] Carrie B Williams

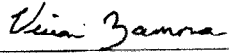
## SETTLEMENT AUTHORIZATION

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\_\_\_\_\_  
Printed Name Neil Norwood  
8/20/14

  
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Printed Name Vivian Zamora  
8/20/14

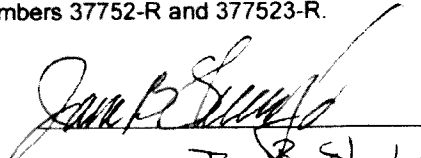


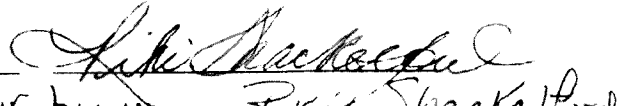
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Printed Name Jim P. Shackelford

  
Printed Name Rick Shackelford

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Printed Name ARTHUR L. ANDERSON

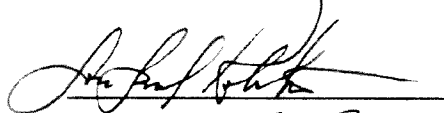
  
Printed Name Joyce E Anderson

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Printed Name Tom Paul Robertson



Printed Name Barbara A. Robertson

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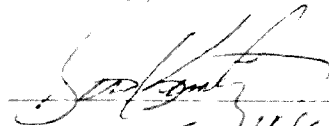
Printed Name RANDALL D. LARSEN Printed Name PATRICIA L. ...

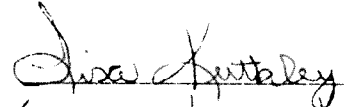
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Printed Name Scott Kartley

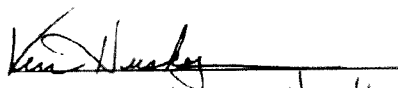
  
Printed Name LISA KEITHLEY  
6021 MONTROSE CT E  
CLEBURNE TX 76033

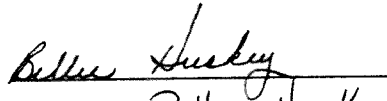
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Printed Name Vernon Huskey

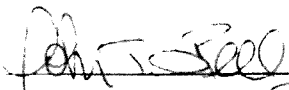
  
Printed Name Billie Huskey


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Printed Name John T. Sell

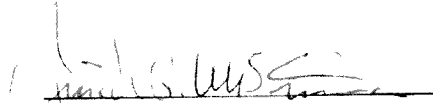
  
Printed Name Donna J. Sell

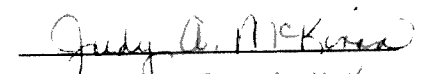
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Printed Name Timothy G. McKenna

  
Printed Name Judy A. McKenna

8/21/2014




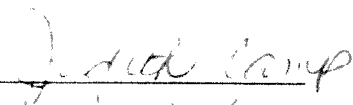
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Printed Name \_\_\_\_\_

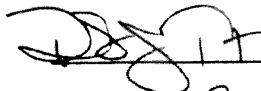
  
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Printed Name Judith Camp

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Printed Name REBECCA J. PRESTON Printed Name \_\_\_\_\_

**SETTLEMENT AUTHORIZATION**

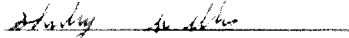
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Printed Name William C. Willis




Printed Name SHIRLEY WILLIS

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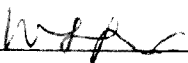
  
Printed Name STEVE MAPLES

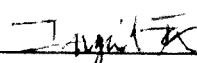
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Printed Name WILLIAM FOX

  
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Printed Name INGRID FOX

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William Marcelli      Lisa Marcelli  
Printed Name WILLIAM      Printed Name LISA MARCELLI  
MARCELLI

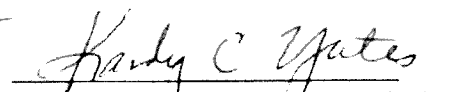
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Printed Name Robert Yates


  
Printed Name Kandy C Yates


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Printed Name Sandra A. McCartney

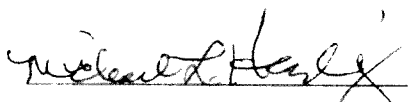
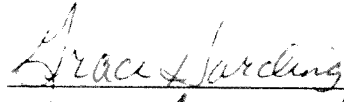


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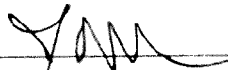
   
Printed Name Michael C. Hardy Printed Name Grace Harding

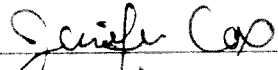
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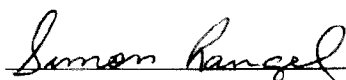
  
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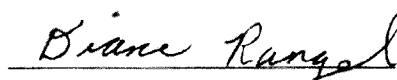
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Printed Name Simon RANGEL



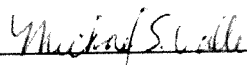
Printed Name Diane Rangel


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Printed Name Michael S. Valle

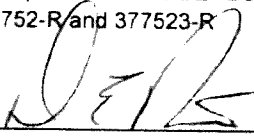
  
Printed Name Caroline P. Valle


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\_\_\_\_\_  
Printed Name DEREKE ROTH

  
\_\_\_\_\_  
Printed Name Kim C. Roth

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Printed Name WANDA B. DARBY

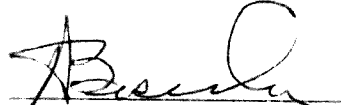
  
Printed Name JOHN E. DARBY


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Printed Name A BESEDA

  
Printed Name Linda Beseda

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Printed Name BILLY E. BARNES



Printed Name LINDA BARNES



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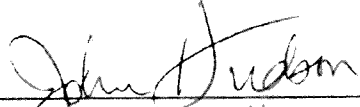
6525 Judy Butler  
Printed Name Judy Butler Printed Name Judy Butler


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Printed Name Samantha Hudson