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calibration shall be paid by Tiemann if the Water Meter was in error on the low side. If the Water Meter is in error by 2% or more, the Company's charge to Tiemann for Water during the period in question shall be increased or decreased, as appropriate, based on the difference in the amount of Water furnished to the Land for one-half of the time period since the previous calibration was made, but in any event for no longer a period than six months.

4. Within thirty (30) days of receipt of a statement for monthly charges from the Company, Tiemann will pay the statement unless there is a dispute as to the accuracy of the billing. In the event there is any dispute regarding the accuracy of the billing, the engineers for the Company and Tiemann shall confer to resolve the issues, which shall be resolved within sixty (60) days after the date of the statement. The undisputed amount of the statement shall be paid in full within the thirty (30) day payment period. If it is determined (whether through consultation, arbitration, or otherwise) that all or any part of the disputed amount of the billing to Tiemann was correct, Tiemann shall forthwith pay the correct portion of the disputed amount to the Company and may keep the balance of the disputed amount, if any.

ARTICLE III

CONDITIONS GOVERNING WATER SUPPLY

Section 3.1: Quantity and Quality of Water.

(a) During the term of this Agreement and subject to Section 4.2 herein, the company shall provide a Water Supply that will be adequate for the needs of the present and future owners, customers, residents and occupants of the Land and those

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in privity with them. The Water shall be furnished at all Water Meters at a pressure and of a quality and quantity adequate to enable Tiemann to comply with applicable Regulatory Requirements including, without limitation, Texas Natural Resource Conservation Commission Regulation 30 TAC 5290.45(f).

(b) During the term of this Contract, the Company shall provide a Water Supply sufficient to serve the Land according to the following phased schedule:

| Year | Cumulative Demand LUE's | Avg. Day gpd | Peak Day gpd | Peak Hr. gpm |
|-----------|-------------------------|--------------|--------------|--------------|
| 1996-1997 | 165 | 99,000 | 210,156 | 332 |
| 1997-1998 | 416 | 249,600 | 526,656 | 832 |
| 1998-1999 | 666 | 399,600 | 843,156 | 1,132 |
| 1999-2000 | 916 | 549,600 | 1,159,656 | 1,557 |
| 2000-2001 | 1,166 | 699,600 | 1,476,156 | 1,982 |
| 2001-2002 | 1,416 | 849,600 | 1,792,656 | 2,407 |
| 2002-2003 | 1,666 | 999,600 | 2,109,156 | 2,832 |
| 2003-2004 | 1,916 | 1,149,600 | 2,425,656 | 3,257 |
| 2004-2005 | 2,166 | 1,299,600 | 2,742,156 | 3,682 |
| 2005-2006 | 2,416 | 1,449,600 | 3,058,658 | 4,107 |
| 2006-2007 | 2,666 | 1,599,600 | 3,375,156 | 4,532 |
| 2007-2008 | 2,916 | 1,749,600 | 3,691,656 | 4,957 |
| 2008-2009 | 3,000 | 1,800,000 | 3,798,000 | 5,100 |

The phased schedule is determined and the Water Supply shall be furnished according to the following criteria which are established pursuant to 30 TAC 5290.45:

1. 50 psi minimum delivery pressure at the highest elevation on the Land, 722 ft msl.
2. 200' gpd per person demand
3. 3 persons per household population
4. 600 gpd average per LUE or connection

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5. Average day at buildout:

600 gpd per household x 3000 LUEs = 1,800,000 gpd average

6. Peak (maximum) day:

1,800,000 x 2.11 = 3,798,000 gpd peak

7. Peak (maximum) hour:

(A) 1,800,000 gpd = 1,250 gpm average x 4.08 = 5,100 gpm

1,440 minimum

(B) Provide at 2.0 gpm per LUE or connection or provide at least 1,000 gallons per minute and meet peak hourly demands.

(c) Whenever at any time or from time to time it is reasonably determined in good faith by Tiemann that the Company through no fault of Tiemann is not able for any reason to furnish a Water Supply at a pressure and of a quantity and quality adequate to enable Tiemann to comply with the applicable Regulatory Requirements, Tiemann shall notify the Company in writing of such inadequacies. Thereafter, the Company shall have a period of time not to exceed ninety (90) days to cure the inadequacies described in the notice. If the Company is unable within that time period to cure the inadequacies described in the notice, then Tiemann may in its discretion obtain an alternate water supply from any source available to it. Such alternate source may be obtained only on a temporary basis until such time as the Company is able to provide a supply adequate to comply with the applicable Regulatory Requirements, whereupon Tiemann shall forthwith cease utilization of the alternate source.

Section 3.2: Construction of Water Facilities.

(a) The Company agrees that it will acquire, construct and expand the Plant and acquire additional sources of Water as needed to have sufficient capacity to provide Wholesale Service to the Land as required by this Agreement. The Plant as it currently exists or as constructed and expanded will be designed and constructed to provide volumes, pressures and delivery points which meet the requirements of this Agreement.

(b) At the request of Manville made at any time during the term of this Contract, Tiemann shall convey to Manville a two (2) acre tract of land for use as a site for constructing an elevated storage tank (the "Tank Site"). The location for the Tank Site shall be determined at the discretion of Tiemann and shall be generally located in the northeast corner of the Land. Additionally, Tiemann shall provide to Manville sufficient easements to allow Manville to access the Tank Site by vehicles and water lines. If Manville fails to construct a storage tank on the Tank Site within five (5) years after Tiemann conveys the land to Manville, ownership of the Tank Site shall revert to Tiemann.

Section 3.3: Conservation Measures. Tiemann will require all of its Customers that connect to the Internal Lines after the effective date of this Agreement to install water conservation devices.

Section 3.4: Testing of Water. Tiemann with a representative of the Company shall be entitled to collect samples of the Water at the Water Meters and cause the same to be analyzed by a certified laboratory or a laboratory at the Texas Department

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of Health or the Texas Natural Resource Conservation Commission in accordance with the appropriate methods to determine if such Water complies with the Regulatory Requirements. If the analysis discloses that the Water does not comply with the Regulatory Requirements, the Company shall take all steps necessary to bring the Water into compliance.

Section 3.5: Independent Contractors. The Company and Tiemann are independent contractors in fulfilling their respective obligations under this Agreement, and nothing herein shall be interpreted as changing or modifying the relationship of the parties unless in writing and signed by both parties.

Section 3.6: Regulatory Action. The Parties recognize that the rights, duties and obligations of the Company and Tiemann as provided in this Agreement are subject to all present and future Regulatory Requirements, and the parties agree to cooperate in making any applications, obtaining permits and approvals as necessary, and doing such other things and taking such other actions as may be desirable in order to comply with all Regulatory Requirements and accomplish the purposes of this Agreement.

Section 3.7: Retail Service Conditions. Tiemann agrees to incorporate in its rules, regulations and policies, in the manner appropriate to the subject matter, the terms, rules and regulations that govern the Company's management of service to its retail customers, such as water conservation, drought management, taps and LUE fees, and take appropriate action to enforce the same.

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ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 4.1: Term: Unless terminated by mutual agreement of the parties hereto, this Agreement shall continue in full force and effect for a period of forty (40) years from date hereof.

Section 4.2: Force Majeure. In the event either party is rendered unable, wholly or in part, by reason of force majeure to carry out any of its obligations under this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used 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. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the police or enemy, orders of any kind of government or the United States, the State of Texas, a local or municipal government of competent jurisdiction or any other entity other than a party to this contract, or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply,

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and any other inabilities of either party, similar to those enumerated, which are not within the control of the party claiming such inability and which such party 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 party having the difficulty and that the above requirements that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

Section 4.3: Remedies upon Default. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all remedies existing at law or in equity, including specific performance and mandamus, may be availed of by either party and shall be cumulative; provided, however, that except as otherwise specifically provided in this Agreement, the manner of proceeding to settle any controversy, claim or dispute arising out of or relating to this Agreement, or any breach thereof, shall be by arbitration as provided in Section 4.11 of this Agreement.

Section 4.4: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind under any circumstances.

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Section 4.5: Addresses and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "notice") herein provided or permitted to be given, made, or accepted by either party to the other must be in writing and may be given or be served by depositing the same in the United States mail, postpaid and registered, or certified and addressed to the party to be notified, with return receipt requested, or be delivering the same to an officer of such party, or by prepaid telegram, when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of two (2) mail delivery days after the day it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as shown on the signature page of this Agreement. The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other party.

Section 4.6: Modification. This Agreement shall be subject to change or modification only by the execution of a writing signed by authorized representatives of each of the parties hereto.

Section 4.7: Assignability; Notice of Assignment. This Agreement shall be assignable by Tiemann only to a district operating under the authority of Article XVI,

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Section 59 of the Texas Constitution without the consent of Manville. In the event of assignment by Tiemann to a district operating under the authority of Article XVI, Section 59 of the Texas Constitution, the assignee district shall succeed to the rights and obligations of Tiemann under this Agreement and Tiemann shall be relieved of all responsibilities or obligations under this Agreement. An assignment to a district shall be effective upon the Company's receipt of written notice of the assignment. Any other assignment of this Agreement by Tiemann or by his successor district, shall be subject to the consent of the Company. Upon any such subsequent assignment, the Company may, at its sole option, terminate this contract and declare the same void. This Agreement may not be assigned by the Company to a private entity without the prior written consent of Tiemann, which consent shall not be unreasonably withheld. This Agreement is binding on the parties hereto and their respective successors, representatives and assigns. Without limitation of the foregoing, no part of this contract is assignable to a home rule or general law city without the consent of the Company.

Section 4.8: Notice of Proceedings Pertaining to Agreement. The Company shall notify Tiemann of all applications, hearings, enforcement actions and other proceedings to which the Company is a party, affecting or pertaining to this Agreement or the subject matter hereof, at or before the Texas Natural Resource Conservation Commission, any other agency having jurisdiction or any court as soon as practical after any such application, activity or proceeding is initiated or commenced.

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Section 4.9: Parties in Interest. This Agreement shall be for the sole and exclusive benefit of Tiemann and the Company and their successors and assigns.

Section 4.10: Severability. This provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 4.11. Arbitration. Except as otherwise expressly provided in this Agreement, any controversy, dispute or claim arising out of or relating to this Agreement, or any breach thereof, shall be settled by arbitration in accordance with the Commercial Rules of Arbitration of the American Arbitration Association; provided, however, that the arbitrator(s) to whom any controversy, which is subject to arbitration under the terms of this Agreement, shall be submitted in accordance with the provisions hereof, shall (1) reside in Travis County, Texas; (2) if three arbitrators, include at least one accountant; and (3) be familiar with water and sewer utilities. The arbitrator(s) have jurisdiction and authority to interpret and apply the applicable provisions of this Agreement in accordance with applicable Regulatory Requirements. Such application or interpretation of the provisions of this Agreement must be in accordance with the spirit and letter of this Agreement. No arbitrator shall have the jurisdiction or authority to add to, take from, nullify, or modify any of the terms of this

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Agreement, directly or indirectly, under the guise of interpretation. The arbitrator(s) shall be bound by the facts and evidence submitted in the hearing and may not go beyond the terms of this Agreement in rendering the award. It is further understood and agreed that the power of the arbitrator(s) shall be strictly limited to determining the meaning and interpretation of the explicit terms of this Agreement as herein expressly set forth and that no arbitrator shall have the power to base any award on any alleged practices or oral understandings not incorporated herein. Any award rendered in arbitration proceedings under this Agreement shall be subject to administrative or judicial review at the instance of either party for the purpose of determining whether the arbitrator(s) exceeded the power as herein limited, and neither party shall be deemed to have waived its right to such review by proceeding to arbitration. Within the power as herein limited, the arbitrator(s) may enter an award based upon any remedy available to the parties as provided in Section 4.3 of this Agreement. Judgment upon the award may be entered in any court having jurisdiction thereof. Any such arbitration proceeding shall be held at such place in Travis County as may be designated by the parties. Each party represents that this Agreement was concluded upon the advice of counsel as evidenced by the respective signatures below. The provisions of this Section are subject to and shall not be considered as attempting to exclude the jurisdiction of the Texas Natural Resource Conservation Commission or any other governmental regulatory authority to arbitrate or settle disputes, hold hearings or enter orders relating to the subject matter of this Agreement.

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Section 4.12: Merger. This Agreement, together with the exhibits attached hereto and made a part hereof for all purposes, constitutes the entire agreement between the parties relative to the subject matter hereof.

Section 4.13: Binding. This Agreement shall be binding on and inure to the benefit of the parties, and their respective successors, representatives and assigns.

EXECUTED in multiple originals as of the 24 day of October, 1996.

TIEMANN LAND & CATTLE
DEVELOPMENT, INC.

By Robert M. Tiemann
Robert M. Tiemann, President

Address: P.O. Box 1190
Pflugerville, Texas 78691

MANVILLE WATER SUPPLY CORPORATION

By H. Leonard Dearing
H. Leonard Dearing,
President

Address: P.O. Box 248
Coupland, Texas 78615

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AGREEMENT FOR PROVIDING WHOLESALE
WATER SERVICE BETWEEN
TIEMANN LAND & CATTLE DEVELOPMENT, INC
AND
MANVILLE WATER SUPPLY CORPORATION

Schedule 1

Living Unit Equivalent ("LUE") Fees.

1. Single Family residence. For each lot on which a single family residence will be built, with a 5/8" meter, the sum of \$800.00.
2. Multi-Family. For each residential living unit within a multi-family structure, the sum of \$800.00.
3. Commercial-Standard. For each commercial structure or use for which a 5/8" meter will be needed, the sum of \$800.00.
4. Commercial-Non Standard. For each commercial structure or use for which a meter larger than 5/8" will be needed, a fee to be determined by the Company's Engineer based on the size of the meter and the anticipated water use converted to commercial standard as stated in paragraph 3 above, subject to review and concurrence by the Engineer for Tiemann.
5. Industrial and Other Non-standard Service. For each industrial structure, use or service other than that shown in 1-4 above, a fee to be determined by the Engineer for the Company in consultation with and the concurrence of the Engineer for Tiemann.

SCHEDULE 1

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FIELD NOTES FOR 1113.57 ACRES

BEING A TRACT OF LAND SITUATED IN TRAVIS COUNTY AND IN WILLIAMSON COUNTY, TEXAS, AND BEING A PART OF THE V. W. SWEARENGEN SURVEY NO. 32, THE GEORGE GRIME SURVEY NO. 33, THE A. BAILEY SURVEY NO. 34 AND THE J. C. LES SURVEY NO. 35 AND BEING A PART OF TRACT ONE AS DESCRIBED IN A WARRANTY DEED FROM GEORGE P. PREWITT, JR., INDIVIDUALLY, AND SHIRLEY J. PREWITT, ON BEHALF OF LOKI, LTD TO ROBERT M. TIEMANN RECORDED IN VOLUME 12212, PAGE 1510 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING ALL OF THAT CERTAIN 5.273 ACRE PARCEL LESS AND EXCEPTED FROM THE SAID DEED TO ROBERT M. TIEMANN RECORDED IN VOLUME 12212, PAGE 1510 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PART OF THAT 93.256 ACRE PARCEL DEEDED TO ROBERT TIEMANN FROM GEORGE P. PREWITT, JR., INDIVIDUALLY AND SHIRLEY J. PREWITT, ON BEHALF OF LOKI, LTD., RECORDED IN VOLUME 12625, PAGE 570 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PART OF THAT CERTAIN 321.88 ACRE PARCEL DESCRIBED IN THE MEMORANDUM OF OPTION RECORDED IN VOLUME 12625, PAGE 353 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PART OF THAT 261.88 ACRE PARCEL DEEDED TO ROBERT M. TIEMANN FROM GEORGE P. PREWITT, JR. AND SHIRLEY PREWITT DATED JULY 27, 1982, AND BEING A PORTION OF THAT 395.98 ACRE PARCEL DESCRIBED IN EXHIBIT "A" RECORDED IN VOLUME 10839, PAGE 680 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 1, BLOCK D, MEADOWS OF BLACKHAWK PHASE ONE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 95 PAGES 96, 97 AND 98 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE N. 22 DEG 22'17" E., ALONG THE EAST LINE OF LOTS 1 AND 2, BLOCK D, 239.70 FEET;

THENCE N. 76 DEG 02'15" W., ALONG THE NORTHERLY LINE OF LOT 2, BLOCK D, 120.05 FEET;

THENCE N. 18 DEG 04'33" E., ALONG THE EAST LINE OF KENNEMER DRIVE, 57.21 FEET;

THENCE N. 72 DEG 08'11" W., ALONG THE BOUNDARY OF SAID PLAT OF MEADOWS OF BLACKHAWK PHASE ONE, 60.00 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 90 DEG 00'00", A CHORD BEARING S. 62 DEG 51'29" W., AND A CHORD LENGTH OF 28.28 FEET) AND ALONG SAID PLAT BOUNDARY, 31.42 FEET;

THENCE N. 72 DEG 08'31" W., ALONG SAID PLAT BOUNDARY, 46.82 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 475.00 FEET, A CENTRAL ANGLE OF 9 DEG 28'38", A CHORD BEARING N. 67 DEG 24'12" W., AND A CHORD LENGTH OF 78.48 FEET) AND ALONG SAID PLAT BOUNDARY, 78.57 FEET;

THENCE N. 26 DEG 43'12" E., ALONG SAID PLAT BOUNDARY, 163.96 FEET;

THENCE N. 31 DEG 36'17" E., ALONG SAID PLAT BOUNDARY, 166.62 FEET;

THENCE N. 49 DEG 37'06" E., ALONG SAID PLAT BOUNDARY, 154.69 FEET;

THENCE N. 51 DEG 09'50" E., ALONG SAID PLAT BOUNDARY, 176.23 FEET;

THENCE N. 30 DEG 21'06" W., ALONG SAID PLAT BOUNDARY, 174.06 FEET;

THENCE N. 16 DEG 12'18" W., ALONG SAID PLAT BOUNDARY, 92.80 FEET;

THENCE N. 5 DEG 27'58" W., ALONG SAID PLAT BOUNDARY, 97.97 FEET;

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THENCE N. 2 DEG 44'44" E., ALONG SAID PLAT BOUNDARY, 72.83 FEET;
THENCE N. 7 DEG 05'58" E., ALONG SAID PLAT BOUNDARY, 64.63 FEET;
THENCE N. 5 DEG 42'10" E., ALONG SAID PLAT BOUNDARY, 98.03 FEET;
THENCE N. 4 DEG 39'14" W., ALONG SAID PLAT BOUNDARY, 56.21 FEET;
THENCE N. 23 DEG 24'22" W., ALONG SAID PLAT BOUNDARY, 70.20 FEET;
THENCE N. 29 DEG 26'12" W., ALONG SAID PLAT BOUNDARY, 139.11 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE LEFT (SAID CURVE HAVING A
RADIUS OF 325.00 FEET, A CENTRAL ANGLE OF 13 DEG 49'14", A CHORD
BEARING N. 51 DEG 22'11" E., AND A CHORD LENGTH OF 78.20 FEET) AND
ALONG SAID PLAT BOUNDARY, 78.39 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A
RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 92 DEG 09'43", A CHORD
BEARING S. 89 DEG 27'34" E., AND A CHORD LENGTH OF 21.61 FEET) AND
ALONG SAID PLAT BOUNDARY, 24.13 FEET;
THENCE N. 43 DEG 22'42" W., ALONG SAID PLAT BOUNDARY, 118.87 FEET;
THENCE ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A
RADIUS OF 455.90 FEET, A CENTRAL ANGLE OF 7 DEG 11'27", A CHORD
BEARING N. 38 DEG 47'48" W., AND A CHORD LENGTH OF 57.18 FEET) AND
ALONG SAID PLAT BOUNDARY, 57.22 FEET;
THENCE S. 54 DEG 50'45" W., ALONG SAID PLAT BOUNDARY, 49.83 FEET;
THENCE S. 73 DEG 12'30" W., ALONG SAID PLAT BOUNDARY, 100.16 FEET;
THENCE S. 88 DEG 40'14" W., ALONG SAID PLAT BOUNDARY, 93.82 FEET;
THENCE N. 61 DEG 53'26" W., ALONG SAID PLAT BOUNDARY, 258.78 FEET;
THENCE N. 78 DEG 46'47" W., ALONG SAID PLAT BOUNDARY, 110.02 FEET;
THENCE N. 12 DEG 58'21" E., ALONG THE WESTERLY LINE OF TRACT ONE,
AS CONVEYED TO ROBERT M. TIEMANN BY WARRANTY DEED RECORDED IN
VOLUME 12212, PAGE 1510 OF THE REAL PROPERTY RECORDS OF TRAVIS
COUNTY, TEXAS, 900.86 FEET, TO THE SOUTH LINE OF ROWE LAKE (ALSO
KNOWN AS COUNTY ROAD NO. 139);
THENCE S. 79 DEG 55'59" E., ALONG THE SOUTH LINE OF ROWE LAKE AND
ALONG THE NORTH LINE OF SAID TRACT ONE, 866.45 FEET;
THENCE S. 80 DEG 22'42" E., ALONG THE SOUTH LINE OF ROWE LAKE,
1205.56 FEET TO THE NORTH CORNER OF A PARCEL OF LAND SAID TO
CONTAIN 95.256 ACRES OF LAND AS DESCRIBED IN A DEED TO ROBERT M.
TIEMANN BY DEED RECORDED IN VOLUME 12625, PAGE 370 OF THE REAL
PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS;
THENCE ALONG THE NORTHERLY LINE OF SAID 95.256 ACRES AND ALONG THE
SOUTHERLY LINE OF ROWE LAKE THE FOLLOWING THREE (3) COURSES:
1. S. 80 DEG 22'42" E., 20.62 FEET;
2. S. 81 DEG 30'36" E., 648.33 FEET;
3. S. 80 DEG 28'17" E., 1006.56 FEET TO THE EAST CORNER OF SAID
95.256 ACRE TRACT AND TO THE NORTHWEST CORNER OF THAT PARCEL SAID
TO CONTAIN 321.88 ACRES OF LAND AS DESCRIBED IN THE MEMORANDUM OF
OPTION BETWEEN JACQUELINE H. SMITH AND ROBERT M. TIEMANN RECORDED
IN VOLUME 12652, PAGE 353 OF THE REAL PROPERTY RECORDS OF TRAVIS
COUNTY, TEXAS;
THENCE ALONG THE NORTH LINE OF SAID 321.88 ACRE PARCEL AND ALONG
THE SOUTH LINE OF ROWE LAKE THE FOLLOWING TWO (2) COURSES:
1. S. 80 DEG 22' E., 927.07 FEET;

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2. S. 79 DEG 52' E., 2428.48 FEET TO THE NORTHEAST CORNER OF SAID 121.88 ACRE PARCEL;

THENCE S. 79 DEG 53'30" E., ALONG THE SOUTH LINE ROWE LANE AND ALONG THE NORTH LINE OF A PARCEL SAID TO CONTAIN 261.87 ACRES OF LAND DEED TO ROBERT M. TIEMANN JULY 27, 1982, 2251.00 FEET TO THE NORTHEAST CORNER OF SAID 261.87 ACRE PARCEL AND TO THE NORTHWEST CORNER OF A PARCEL SAID TO CONTAIN 305.98 ACRES OF LAND AS DESCRIBED IN EXHIBIT "A" RECORDED IN VOLUME 10839, PAGE 680 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE S. 79 DEG 53'30" E., ALONG THE SOUTH LINE OF ROWE LANE AND ALONG THE NORTH LINE OF SAID 305.98 ACRE PARCEL, 2281.37 FEET TO THE WEST LINE OF HODDE LANE AND TO THE NORTHEAST CORNER OF SAID 305.98 ACRE PARCEL;

THENCE S. 29 DEG 32' W., ALONG THE WEST LINE OF HODDE LANE AND ALONG THE EASTERLY LINE OF SAID 305.98 ACRE PARCEL, 2270.11 FEET;

THENCE S. 29 DEG 50'30" W., ALONG THE WEST LINE OF HODDE LANE AND ALONG THE EASTERLY LINE OF SAID 305.98 ACRE PARCEL, 2053.76 FEET;

THENCE S. 29 DEG 56' W., ALONG THE WEST LINE OF HODDE LANE AND ALONG THE EASTERLY LINE OF SAID 305.98 ACRE PARCEL, 13.33 FEET TO THE NORTHEAST CORNER OF THE PLAT OF ROWE VALLEY SUBDIVISION SECTION ONE, AS RECORDED IN VOLUME 90, PAGES 308, 309 AND 310 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE N. 60 DEG 00'00" W., ALONG THE NORTH LINE OF SAID ROWE VALLEY SUBDIVISION SECTION ONE, 867.78 FEET TO THE NORTHWEST CORNER OF SAID PLAT;

THENCE S. 30 DEG 00'00" W., ALONG THE WEST LINE OF SAID ROWE VALLEY SUBDIVISION SECTION ONE, 2005.23 TO THE SOUTHWEST CORNER OF SAID PLAT;

THENCE S. 60 DEG 00'00" E., ALONG THE SOUTH LINE OF SAID ROWE VALLEY SUBDIVISION SECTION ONE, 870.11 FEET TO THE SOUTHEAST CORNER OF SAID PLAT;

THENCE S. 29 DEG 56' W., ALONG THE WEST LINE OF HODDE LANE AND ALONG THE EASTERLY LINE OF THE SAID 305.98 ACRE PARCEL, 88.05 FEET;

THENCE S. 51 DEG 07' W., ALONG THE WEST LINE OF HODDE LANE, 53.57 FEET;

THENCE S. 79 DEG 40' W., ALONG THE WESTERLY LINE OF HODDE LANE, 51.98 FEET;

THENCE N. 67 DEG 04' W., ALONG THE NORTH LINE OF HODDE LANE, 278.20 FEET;

THENCE N. 60 DEG 01'57" W., ALONG THE SOUTH LINE OF SAID 305.98 ACRE PARCEL, ALONG THE SOUTH LINE OF THE SAID 261.87 ACRE PARCEL AND ALONG THE SOUTH LINE OF THE SAID 121.88 ACRE PARCEL, 6325.92 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO GEORGE P. PREWITT, JR., BY DEED RECORDED IN VOLUME 5680, PAGE 1349 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE S. 31 DEG 33' W., ALONG THE SOUTHERLY LINE OF SAID 121.88 ACRE PARCEL, 37.70 FEET;

THENCE N. 60 DEG 09' W., ALONG THE SOUTHERLY LINE OF SAID 121.88 ACRE PARCEL, 780.63 FEET TO THE SOUTHWEST CORNER OF SAID 121.88 ACRE PARCEL AND THE SOUTHEAST CORNER OF SAID 95.256 ACRE PARCEL;

THENCE N. 60 DEG 08'22" W., ALONG THE SOUTH LINE OF SAID 95.256 ACRE PARCEL, 139.83 FEET TO A POINT IN THE EAST LINE OF DIABLO DRIVE, AS

2-1-1-A 354

Attachment 5

RECORDED IN VOLUME 93, PAGE 245 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, THE SAME BEING THE EAST LINE OF FAIRWAYS OF BLACKHAWK, PHASE IIA, RECORDED IN BOOK 93, PAGE 245 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE N. 29 DEG 52'57" E., ALONG THE EAST LINE OF DIABLO DRIVE AND ALONG THE EAST LINE OF SAID FAIRWAYS OF BLACKHAWK, PHASE IIA, 71.19 FEET TO THE NORTHEAST CORNER OF DIABLO DRIVE AND THE NORTHEAST CORNER OF SAID FAIRWAYS OF BLACKHAWK, PHASE IIA;

THENCE N. 50 DEG 08'23"W., ALONG THE NORTH LINE OF FAIRWAYS OF BLACKHAWK, PHASE IIA, AT A DISTANCE OF 50.00 FEET PASS THE NORTHWEST CORNER OF DIABLO DRIVE, IN ALL A TOTAL DISTANCE OF 751.94 FEET;

THENCE N. 67 DEG 14'56" W., ALONG THE NORTH LINE OF SAID FAIRWAYS OF BLACKHAWK, PHASE IIA, 74.59 FEET TO THE WEST LINE OF THE SAID 95.256 ACRE PARCEL AND TO THE EASTERLY LINE OF THE SAID TRACT ONE AS DESCRIBED IN DEED RECORDED IN VOLUME 12212, PAGE 1510 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS;

THENCE N. 67 DEG 14'56"W., CROSSING SAID TRACT ONE, 500.57 FEET TO THE SOUTHERLY LINE OF SAID TRACT ONE;

THENCE N. 60 DEG 08'22" W., ALONG THE SOUTHERLY LINE OF SAID TRACT ONE, 565.50 FEET;

THENCE N. 59 DEG 40'15" W., ALONG SAID SOUTHERLY LINE, 839.51 FEET TO THE SAID POINT OF BEGINNING.

THE BEARING BASIS FOR THIS TRACT IS THE SAME AS TRACT ONE AS DESCRIBED IN THE WARRANTY DEED RECORDED IN VOLUME 12212 PAGE 1510 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

THIS SURVEY WAS MADE FROM AVAILABLE DEED INFORMATION, PLAT RECORDS AND OTHER RECORDED INFORMATION AVAILABLE AND DOES NOT PURPORT TO BE AN ON THE GROUND SURVEY.

6-22-96
GEORGE E. LUCAS
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 4150
STATE OF TEXAS
FILE# C:\WPDOCS\314FN

RANDALL JONES ENGINEERING, INC.
1212 EAST BRAKER LANE
AUSTIN TEXAS

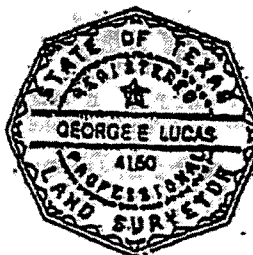
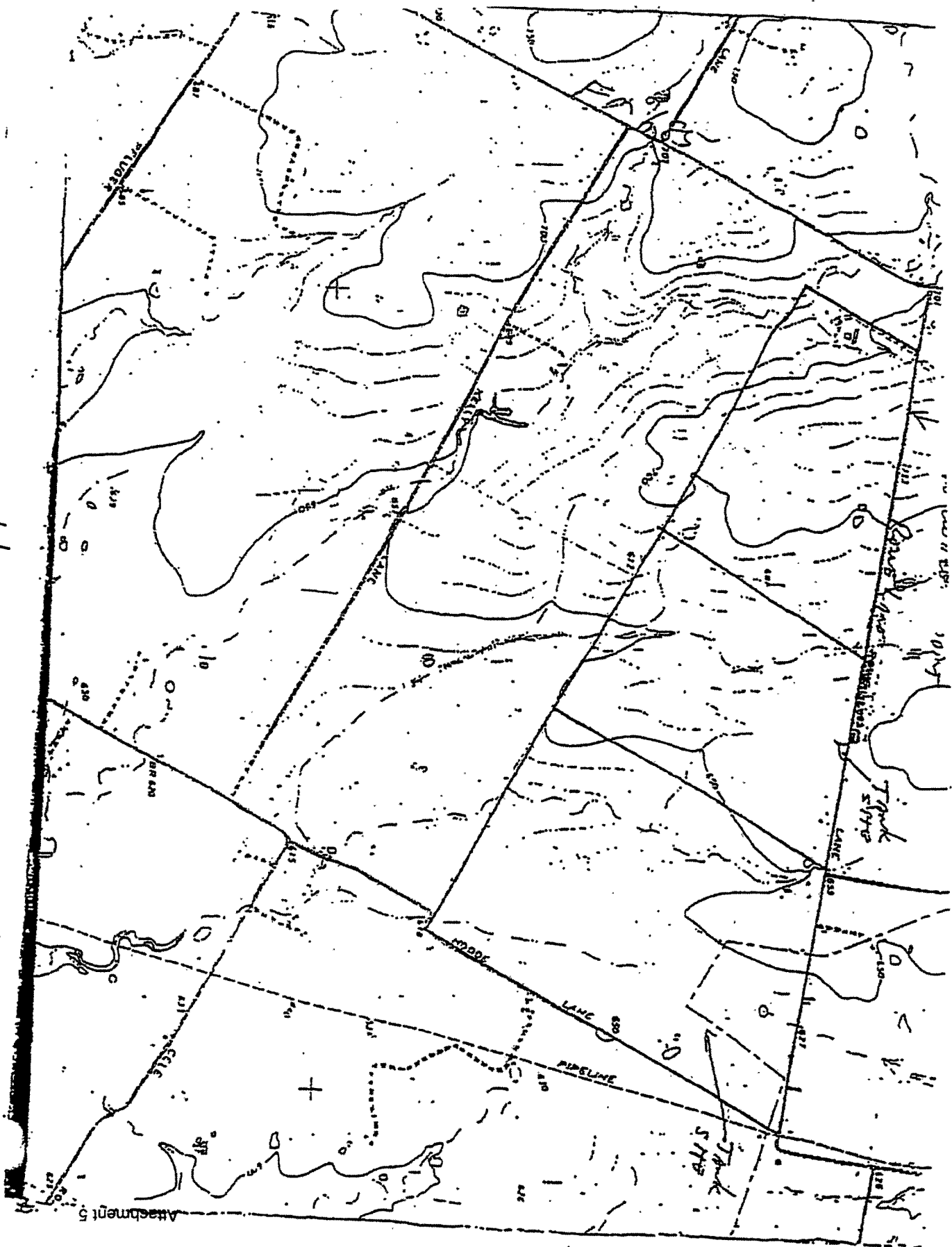


Exhibit A 4004



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION Attachment 5



General Information and Instructions on the

APPLICATION FOR SALE, TRANSFER OR MERGER
OF A RETAIL PUBLIC UTILITY

GENERAL INFORMATION

Pursuant to V.T.C.A., Water Code Section 13.301, this application must be filed with the Commission and notice must be provided to each customer being transferred and each utility within 2 miles at least 120 days before the effective date of any sale, acquisition, lease or rental, merger or consolidation of any water or sewer system required by law to possess a certificate of convenience and necessity (CCN). A transaction that has taken place since September 1, 1991, and has not been completed in accordance with Section 13.301 of the Texas Water Code including the 120 day prior notice, is void.

This form should be used by investor owned utilities (IOU), water supply or sewer service corporations (WSC), affected counties, and any CCN holder to notify the Texas Natural Resource Conservation Commission 120 days prior to the sale, acquisition, lease, rental, merger or consolidation of any water or sewer system required by law to possess a CCN. This form is also used to transfer, obtain, or amend a CCN in conjunction with a sale, acquisition, lease, rental, merger or consolidation of a public utility.

INSTRUCTIONS

Please answer each question on the attached forms completely. These forms may be re-typed; however, the original sequence, content and wording of the questions must be preserved. You may attach additional sheets, if necessary, but each sheet should be marked with the applicant's name and mailing address, clearly labeled "Attachment 1", "Questions 16, Attachment 2, Question 17;" etc., and accompanied by a brief explanation of the attachment. If a question is not applicable, please mark "N/A" and explain why the question does not apply. The applicant should not assume any knowledge of their specific water or sewer utility by the Texas Natural Resource Conservation Commission (TNRCC or Commission). **DO NOT LEAVE ANY QUESTIONS BLANK**

A complete application will include:

1. An original and three (3) copies of the completed application, and all required attachments, maps and exhibits;
2. Four copies of the agreement between parties, contingent contract, or other documents supporting the proposed transaction;
3. An original and three (3) copies of the proposed tariff for the purchased system. For utilities subject to the Commission's original rate jurisdiction, the tariff's rates must reflect the current rates being charged to the customers. Water supply or sewer service corporations, districts and municipalities must file a schedule of rates to be charged after the transfer. Districts and municipalities need not file a full tariff, but WSCs who

do not have a complete tariff on file with the Commission for information purposes must file a copy of their current tariff. Water and sewer utility tariff forms may be obtained from the Utility Rates and Services Section;

4. An original and three (3) copies of your notice provided to customers and neighboring utilities;
5. The required filing fee according to the following schedule:
 - a. fewer than 100 connections - \$50
 - b. 100 to 200 connections - \$100
 - c. 201 to 500 connections - \$200
 - d. more than 500 connections - \$500
6. If the system being sold or acquired does not have a CCN, an additional \$100 filing fee is required to cover issuance of a CCN. The notice form labeled *Notice to Current Customers, Neighboring Systems and Cities - Form B* should be used to notify customers and neighboring utilities;
7. Four copies of the latest Texas Water Commission (TWC) or TNRCC annual inspection report for the systems being acquired and your response letter if any;
8. For corporations, four (4) copies of "Certification of Account Status";
9. An original and three (3) copies of each of the sworn affidavits of the transferor and transferee utilities' representatives.

Mail these items to: Texas Natural Resource Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC-153
P. O. Box 13088
Austin, Texas 78711-3088

PROCESSING YOUR STM APPLICATION

Enclosed in this packet is a flow chart of the review process. Your application will go through an Administrative Review and, when accepted for filing, through a Technical Review. For uncontested applications, processing time depends on the response time of the applicant. Contested applications generally take longer because of the need for scheduling a public hearing, and processing time depends on whether a settlement agreement between the applicant and the protestor(s) is reached. The dates provided in the flow chart are generally the time it takes to process an uncontested application.

ADMINISTRATIVE REVIEW OF YOUR STM APPLICATION

Your application will be reviewed for administrative completeness by the staff within ten working days after receipt. You will receive a modified notice and instructions for re-noticing and/or publication after your application has been reviewed if it is determined that notice was inadequate or publication is required. If the application is determined to be incomplete or deficient, you will be notified of the deficiencies by mail and will have thirty days in which to amend the application and correct the deficiencies. Failure to correct the deficiencies may result in the Executive Director requesting that a hearing be scheduled which will delay the effective date of the proposed transaction until after a hearing is completed and the Commission has rendered a decision.

NOTICE

Notice of the proposed transaction must be given to the public at least 120 days prior to the effective date. Notice should be provided at the time the application is submitted to the Commission. Enclosed in this packet are two notice forms labeled *Notice to Current Customers, Neighboring Systems and Cities - Form A* and *Form B*. Form A could be used if the seller utility has a CCN. Form B should be used if the seller utility does not have a CCN and the purchaser utility will obtain it or will amend its current CCN as a result of the transaction. When in doubt, please contact the Utility Rates and Services Section for assistance. The executive director may also request that notice be published and/or provided to other affected parties.

TECHNICAL REVIEW OF YOUR STM APPLICATION

Prior to the expiration of the 120 day notification period, the staff will investigate the proposed transaction. You will receive notice of the executive director's decision as to whether a public hearing will be held. The executive director may request a hearing (as outlined in V.T.C.A. Water Code Section 13.301(c)) if: (1) the notification to the commission or the public notice was improper; (2) the person purchasing or acquiring the water or sewer system is inexperienced as a utility service provider; (3) the person or an affiliated interest of the person purchasing or acquiring the water or sewer system has a history of noncompliance with the requirements of the commission or the Texas Department of Health or of continuing mismanagement or misuse of revenues as a utility service provider; (4) the person purchasing or acquiring the water or sewer system cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water or sewer system; or (5) there are concerns that the transaction may not serve the public interest, after the application of the considerations provided by Section 13.246(c) for determining whether to grant a certificate of convenience and necessity.

Unless a public hearing is held, the transaction may be completed as proposed at the end of the 120 day period. You will receive notice after you receive notice that a hearing will not be requested. If a hearing is requested or if proper notice is not provided, the transaction may not be completed without a determination by the Commission that the transaction serves the public interest.

If the application is contested and a hearing is requested, the application will be referred to the State Office of Administrative Hearings (SOAH). During the preliminary hearing, the presiding Administrative Law Judge (ALJ) may give the parties time to negotiate a settlement. If a settlement is reached, the application will be remanded to staff for administrative processing. If a settlement is not reached, a discovery schedule and a date for an evidentiary hearing will be set. The ALJ will take testimony from each party and present a report to the Commission to consider in making a final decision on the application.

FILING OF SIGNED CONTRACT

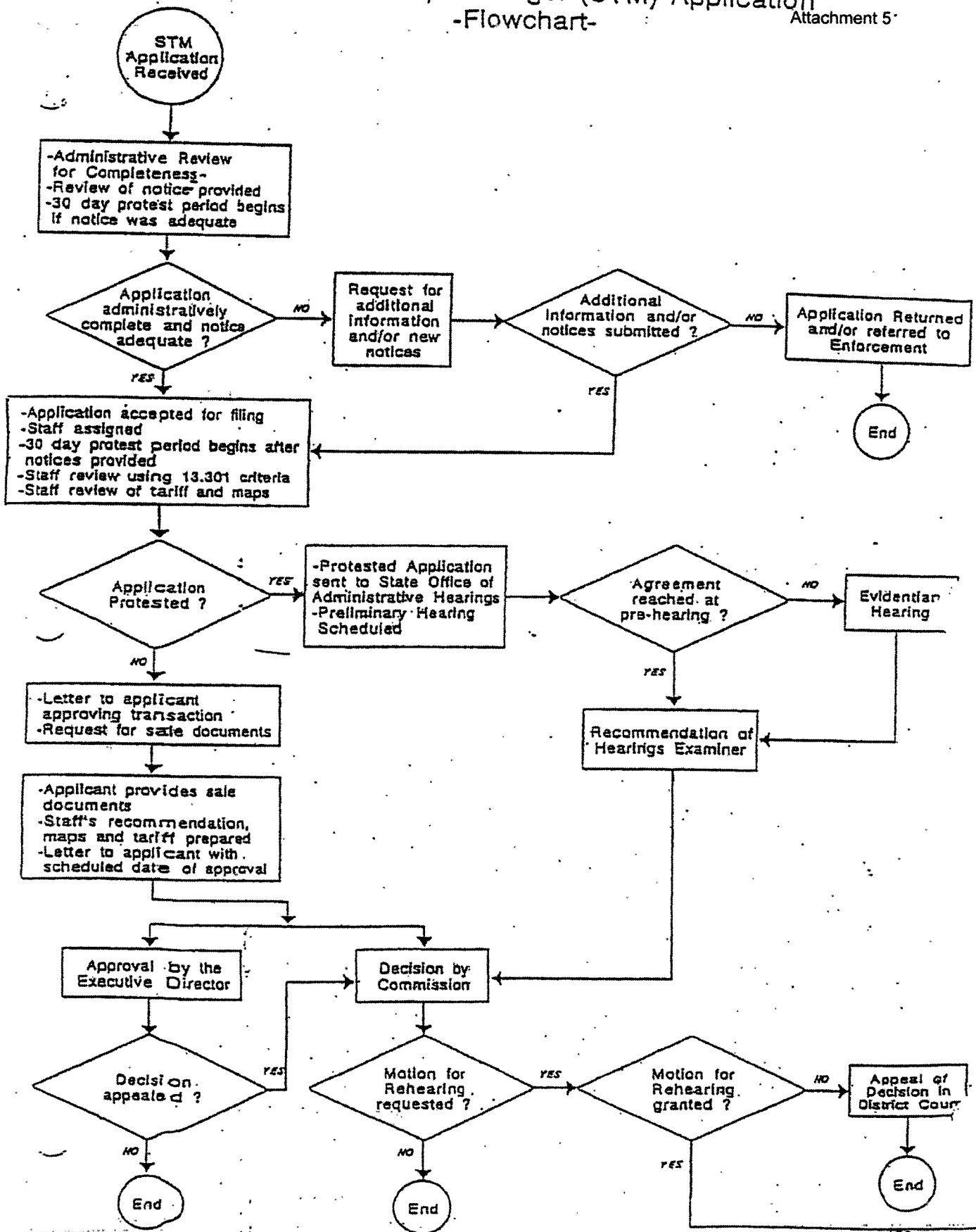
Within 30 days after the effective date, the parties must file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has been made final and also file documents supporting the transfer of customer deposits or other disposition and a sworn affidavit explaining the disposition of customer deposits. The Commission cannot issue or transfer the CCN without evidence that the transaction had been executed.

ORDERING ADDITIONAL FORMS OR INFORMATION

An information order form is attached which includes all current application and petition forms, pamphlets and other information available from the Utility Rates and Services Section at no charge.

The Texas Natural Resource Conservation Commission is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, or disability in employment or in the provision of services, programs, or activities. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the Utility Rates and Services Section at 512/239-6966, fax number 512/239-6972, by calling 1-800-RELA-Y-TX (TDD), or by writing or visiting at 12015 Park 35 Circle, Building F, Austin, Texas 78753.

Sale, Transfer, or Merger (STM) Application -Flowchart- Attachment 5



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Attachment 5

Water Utilities Division
Utility Rates and
Services SectionAPPLICATION FOR SALE, TRANSFER,
OR MERGER OF A RETAIL PUBLIC UTILITY

1. Proposed action of application (check all the boxes that apply):

| | | | | | |
|---------------------------------------|----|----------------------------------|--------|---|-------|
| <input type="checkbox"/> Sale | of | <input type="checkbox"/> All | of the | <input type="checkbox"/> Water system(s) under CCN No.: | _____ |
| <input type="checkbox"/> Acquisition | | <input type="checkbox"/> Portion | | <input type="checkbox"/> Sewer system(s) under CCN No.: | _____ |
| <input type="checkbox"/> Lease/Rental | | | | | |
| <input type="checkbox"/> Transfer | of | <input type="checkbox"/> All | of the | <input type="checkbox"/> Certificated water service area - CCN No.: | _____ |
| | | <input type="checkbox"/> Portion | | <input type="checkbox"/> Certificated sewer service area - CCN No.: | _____ |

☒ If only a portion of a system or certificated service area is affected by this transaction, please specify the areas or subdivisions involved:

and to:

- ☐ Obtain a CCN for the transferee (purchaser)
- ☐ Amend the transferee's CCN No.: _____
- ☐ Merge or consolidate public utilities
- ☐ Cancel CCN of the transferor (seller)

2. Proposed effective date of this transaction: _____

(Must be at least 120 days after the filing of this application).

QUESTIONS 3 THROUGH 5 APPLY TO AND SHOULD BE COMPLETED ONLY BY THE TRANSFEROR, CURRENT SERVICE PROVIDER OR SELLER

3. For the current CCN holder or service provider please indicate:

A. Name: _____

(Individual, Corporation or Other Legal Entity)

who is a(n): ☐ Individual ☐ Corporation ☐ WSC ☐ HOA or POA ☐ Other: _____

Attachment 5

B. Utility Name (if different than above): _____

Address: _____

Telephone: _____

C. Contact person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney or accountant.

Name: _____

Title: _____

Address: _____

Telephone: _____

4. About the last rate increase for the system or facilities being transferred:

A. What was the effective date of the last rate increase? _____

B. Was notice of this increase provided to the Texas Natural Resource Conservation Commission or its predecessors Public Utility Commission or Texas Water Commission?

☐ No.

☐ Yes.

Application/Docket Number: _____

Date: _____

5. Please provide a list of all customers affected by this transaction who have deposits held by the transferor or seller utility, if any, and include the following information (attach additional sheets if necessary):

| Name and Address of utility customer | Date of Deposit | Amount of Deposit | Amount of unpaid interest on Deposit |
|--------------------------------------|-----------------|-------------------|--------------------------------------|
| | | | |
| | | | |
| | | | |

☞ Within 30 days of the actual transaction date, and prior to the transfer of the certificate by the TNRCC, the seller must provide proof to the Commission that these customer deposits were returned to the customers or transferred to the purchasing utility. Proof should include a sworn affidavit.

☞ **QUESTIONS 6 THROUGH 13 REFER TO AND SHOULD BE COMPLETED BY THE TRANSFEREE OR PURCHASER**

6. For the person or entity acquiring the facilities and/or CCN:

Applicant: _____

(Individual, Corporation, or Other Legal Entity)

Utility Name: _____

(If different than above)

Utility Address: _____

Telephone: _____

CCN Numbers held prior to the filing of this application: _____

Attachment 5

7. Check the appropriate box and provide information regarding the legal status of the transferee applicant:
- ☐ Individual
- ☐ Home or Property Owners Association
- ☐ Partnership; attach copy of partnership agreement
- ☐ Corporation; provide charter number as recorded with the Office of the Secretary of State for Texas: _____
- ☐ Non-profit, member-owned, member-controlled Cooperative Corporation (Article 1434(a) Water Supply or Sewer Service Corporation); provide charter number: _____
- ☐ Municipally-owned utility
- ☐ District (MUD, SUD, WCID, etc.)
- ☐ County
- ☐ Other (please explain): _____

8. If the applicant is an *Individual* provide the following information. If not, skip to the next question.

Name: _____ Telephone: _____

Address: _____

9. If the applicant is other than an *Individual* provide the following information regarding the officers or partners of the legal entity applying for the transfer. You must complete either question 8. or question 9., whichever applies to the transferee applicant.

Name: _____ Telephone: _____

Address: _____

Position: _____ Ownership % (if applicable): _____

Name: _____ Telephone: _____

Address: _____

Position: _____ Ownership % (if applicable): _____

Name: _____ Telephone: _____

Address: _____

Position: _____ Ownership % (if applicable): _____

Name: _____ Telephone: _____

Address: _____

Position: _____ Ownership % (if applicable): _____

- Attach additional sheet(s) if necessary -

Important: • If the applicant is a for-profit corporation, please provide a copy of the corporation's "Attachment 5 Certification of Account Status" from the State Comptroller Office. This "Certification of Account Status" can be obtained from:

Comptroller of Public Accounts, Office Management
P. O. Box 13528, Capitol Station
Austin, Texas 78711
1-800-252-5555

• If the applicant is an Article 1434a water supply or sewer service corporation or other non-profit corporation, please provide a copy of the Articles of Incorporation and By-Laws.

10. Contact person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney or accountant.

Name: _____ Title: _____
Address: _____ Telephone: _____

IF THERE ARE MORE THAN TWO PARTIES INVOLVED IN THIS TRANSACTION, PLEASE ATTACH SHEETS PROVIDING THE INFORMATION REQUIRED IN QUESTION 6 THROUGH QUESTION 10 FOR EACH PARTY

11. Please respond to each of the following questions. Attach additional sheets if necessary.

A. Describe the experience and qualifications of the applicant to provide adequate utility service:

B. Has the applicant acquiring the CCN or facilities or an affiliated interest of the applicant been under enforcement action by the Texas Department of Health, the Commission, the Attorney General or EPA in the past for noncompliance with rules, orders or State Statutes?

| | |
|--------------------------|------|
| <input type="checkbox"/> | Yes. |
| <input type="checkbox"/> | No. |

If yes, please attach copies of any correspondence with these regulatory agencies concerning these enforcement actions and describe any actions and efforts to comply with those requirements.

C. Describe the source and availability of funds required to make the planned or required improvements to meet minimum requirements of the Texas Natural Resource Conservation Commission and ensure continuous and adequate service.

D. Describe the anticipated impact of this transaction on the quality of utility service and explain any anticipated changes in the quality of service.

Attachment 5

12. Please describe the nature of the proposed transaction:

13. If the transferee applicant is an IOU and will be under the rate jurisdiction of the TNRCC, please provide the following information. Water supply or sewer service corporations and political subdivisions of the state should mark this section N/A.:

A. • Total Purchase Price:

• Total Original Cost (as recorded on books of seller or merging entity):

• Accumulated Depreciation as of the proposed effective date of the transaction:

• Contributions in Aid of Construction:

- Specific surcharges approved by TNRCC:

- Revenues from explicit customer agreements:

- Developer Contributions (please explain):

- Other Contributions (please explain):

Total Contributions in Aid of Construction:

• Net Book Value:

☒ If the Original Cost or any of the above items has been established in a rate case proceeding by the PUC, the TWC or the TNRCC, please provide the Application/Docket Number and date:

Application/Docket Number: _____

Date: _____

☒ If the applicant is not under the rate jurisdiction of the TNRCC, only the purchase price and information related to Contributions in Aid of Construction is required.

B. Please provide any other information concerning the nature of the transaction and consideration given if not explained elsewhere in the application (attach additional sheet(s) if necessary):

Attachment 5

- C. Complete the following proposed entries in books of purchasing (or surviving) company to record purchase or merger). Additional entries may be made, the following are suggested only, and not intended to pose descriptive limitations.

Utility Plant in Service:

Plant Acquisition Adjustment:

Extraordinary Loss on Purchase:

Accumulated Depreciation of Plant:

Cash:

Notes Payable:

Mortgage Payable:

Others (please list):

As the purchaser, I understand that it is my responsibility in any future rate proceeding to provide written evidence and support for the original cost and installation date of all facilities used and useful for providing utility service.

Purchaser's Initials: _____ Date: _____

14. Please indicate the proposed effect of this transaction on the rates to be charged to the affected customers:

☐

All the customers will be charged the same rates as they were charged before the transaction.

☐

Some ☐ All customers will be charged different rates than they were charged before the transaction.

If so, please explain: _____

☐

Applicant is an IOU and intends to file with the Commission or municipal regulatory authority an application to change rates of some/all of its customers as a result of this transaction. If so, please explain: _____

☐

Other. Please explain: _____

15. List all neighboring water and/or sewer utilities, cities, and political subdivisions providing the same service within two (2) miles of area affected by this proposed transaction. This information should be available from Applicant's licensed water operator or regional Texas Department of Health Office.

PLEASE ANSWER QUESTIONS 16 THROUGH 22 FOR EACH PHYSICALLY DISTINCT SYSTEM WHICH IS BEING TRANSFERRED OR ACQUIRED ON A DIFFERENT SHEET Attachment 5

16 A. For Water Systems. TNRCC Public Water System Identification Number:

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

B. For Wastewater Systems:

-TNRCC Discharge Permit Number:

| | | | | | | | | | | | |
|---|---|--|--|--|--|--|--|--|--|--|--|
| W | Q | | | | | | | | | | |
|---|---|--|--|--|--|--|--|--|--|--|--|

-Name of Permittee: _____

-Date of application to transfer Discharge Permit submitted: _____

-Date of application to transfer Discharge Permit approved by TNRCC: _____

17. A. Are any improvements required to meet TNRCC standards? ☐ Yes ☐ No

B. Is there a moratorium on new connections? ☐ Yes ☐ No

C. Provide details of each required major capital improvement to correct the deficiencies and meet the TNRCC standards (attach additional sheets if necessary):

| Description of the required improvement | Schedule to Complete | Estimated Cost |
|---|----------------------|----------------|
| | | |
| | | |

18. Does the system being transferred operate within the city limits of a municipality? ☐ Yes ☐ No

If yes, indicate the number of customers within the city limits: _____ Water _____ Sewer

☛ Attach copy of franchise agreement or consent letter from the city.

19. Do you currently purchase water or sewer treatment capacity from another source? ☐ Yes ☐ No

☐ Water ☐ Sewer Purchased on a () regular - () seasonal - () emergency basis.

• Source: _____ % of total supply: _____

20. List the number of existing connections to be affected by this transaction:

| Water | | | | Sewer | | | |
|--------------------------|--|--------------|--|--------------------------|--|--|--|
| Non Metered | | 2" meter | | Residential connection | | | |
| 5/8" or 3/4" meter | | 3" meter | | Commercial connection | | | |
| 1" meter | | 4" meter | | Industrial connection | | | |
| 1 1/2" meter | | Other _____" | | Other _____ | | | |
| Total Water connections: | | | | Total Sewer connections: | | | |

21. Has the system reached 85% of its capacity based on TNRCC's minimum requirements? ☐ Yes ☐ No

22. List the name, class, and license number of the operator that will be responsible for the system:

Attachment 5

23. Attach the following maps with each copy of the application: (All maps should include Applicant's name, address, and telephone number, and date of drawing or revision. All maps should be folded to 8½ X 11")
- a. One county map (Texas Highway Department 1" = 2 miles) clearly showing affected service area. Service area boundaries should conform to verifiable landmarks such as roads, creeks, railroads, etc. County maps may be obtained locally or from the State Department of Highways and Public Transportation, Attention File D-10, P. O. Box 5051, Austin, Texas 78763, (512) 465-7397.
 - b. One large scale map showing the proposed service area boundaries being sold, transferred, or merged and, if available, the existing and proposed facilities. Color coding should be used to differentiate existing from proposed facilities. Facilities and service area boundaries should be shown with such exactness that they can be located on the ground. Applicant should use U.S.G.S. 7½-minute series, subdivision plat, engineer planning map, or other large scale map.

OATH FOR SELLER OR FORMER SERVICE PROVIDER

Attachment 5

STATE OF _____

COUNTY OF _____

I, _____, being duly sworn, file this application for sale, lease, rental or merger consolidation as _____ (Indicate relationship to applicant) that is, owner, member of partnership, or as officer of corporation, or other authorized representative of applicant; that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application and have complied with all the requirements contained in the application; and, that all such statements made in matters set forth therein with respect to applicant are true and correct. Statements about other parties are made in information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I further state that I have provided to the purchaser or transferee a written disclosure statement about any contribute property as required under Section 13.301(f) and copies of any outstanding Orders of the Commission or Attorney General and have also complied with the notice requirements in Section 13.301(g) of the Water Code.

Notice of this transaction was _____ mailed or _____ hand delivered to each customer and neighboring utility on _____, 19____.

AFFIANT

(Applicant's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the applicant or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State and County above named, this _____ day of _____, 19____.

SEAL

Notary Public

One copy of this page must be submitted for each utility involved in this transaction.

Attachment 5

OATH FOR PURCHASER OR ACQUIRING ENTITY

STATE OF _____

COUNTY OF _____

I, _____, being duly sworn, file this notice of intent to purchase, acquire, lease or rent, merge or consolidate as _____ (indicate relationship to applicant) that is, owner, member, partnership, title as officer of corporation, or other authorized representative of applicant); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that the application does not duplicate any filing presently before the Commission.

I am also authorized and do agree to be bound by and comply with any outstanding orders of the Commission or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

AFFIANT

(Applicant's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the applicant or its attorney, a properly verified Power of Attorney must be enclosed.

Applicant represents that all other parties to this transaction have been furnished copies of this completed application.

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in and for the State and County above-named, this ____ day of _____, 19 ____.

SEAL

Notary Public

One copy of this page must be submitted for each utility involved in this transaction.

NOTICE OF INTENT TO SELL FACILITIES AND TRANSFER THE CERTIFICATE OF
CONVENIENCE AND NECESSITY (CCN) OF Attachment 5
TO _____ IN _____ COUNTY, TEXAS

Gentlemen:

Date Notice Mailed: _____, 19__

Seller's or Transferor's Name

Address

City

State

Zip Code

has submitted an application with the Texas Natural Resource Conservation Commission to sell facilities and transfer a CCN to provide _____ [water/sewer] utility service in _____ [County Name] County to:

Purchaser's or Transferee's Name

Address

City

State

Zip Code

The sale is scheduled to take place as approved by the Executive Director (V.T.C.A., Water Code §13.301). The transaction and the transfer of the CCN includes the following subdivision

The area subject to this transaction is located approximately _____ miles _____ [direction] downtown _____ [City or Town], Texas and is generally bounded on the north by _____; on the east by _____; on the south by _____; and on the west by _____.

The total area being requested includes approximately _____ acres and _____ current customers. This transaction will have the following effect on the current customer's rates and services:

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must state (1) your name, mailing address and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement "I/we request a public hearing"; (4) a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing. Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled. The Executive Director will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Executive Director may issue the CCN 30 days after publication of this notice.

persons who wish to protest or request a hearing on this application should write the:

Texas Natural Resource Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC-153
P. O. Box 13087, Austin, TX 78711-3087

Utility Representative

Utility Name

NOTICE OF INTENT TO SELL FACILITIES OF _____
TO _____ AND TO OBTAIN OR AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY (CCN) IN _____ COUNTY, TEXAS

Gentlemen:

Date Notice Mailed: _____, 19____

Seller's or Transferor's Name

Address

City

State

Zip Code

has submitted an application with the Texas Natural Resource Conservation Commission to sell facilities to provide
[water/sewer] utility service in _____ (County Name) County to:

Purchaser's or Transferee's Name

Address

City

State

Zip Code

The transferee has also requested to obtain/amend a CCN in this application. The sale is scheduled to take place as approved by the Executive Director (V.T.C.A., Water Code §13.301). The transaction and proposed service area includes the following subdivisions:

The area subject to this transaction is located approximately _____ miles _____ (direction) of downtown _____ (City or Town), Texas and is generally bounded on the north by _____; on the east by _____; on the south by _____; and on the west by _____.

The total area being requested includes approximately _____ acres and _____ current customers.

This transaction will have the following effect on the current customer's rates and services:

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing you must state (1) your name, mailing address and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement "I/we request a public hearing"; (4) a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and issuance of the CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing. Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled. The Executive Director will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Executive Director may issue the CCN 30 days after publication of this notice.

persons who wish to protest or request a hearing on this application should write the:

Texas Natural Resource Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC-153
P. O. Box 13087, Austin, TX 78711-3087

Utility Representative

Utility Name

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_____, 199__

Utility Certification and
Rate Design Section
Water Utilities Division
Texas Natural Resource
Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

RE: Transfer of a Portion of the
Certificated Water Service Area
Under CCN No. 11144

Manville Water Supply Corporation consents to the transfer of a portion of the water service area under Certificate of Convenience and Necessity No. 11144 to Tiemann Land & Cattle Development, Inc. (or _____ Water Control and Improvement District). The service area to be transferred is located in Travis and Williamson Counties and is described on the attached Exhibit "A." Tiemann Land & Cattle Development, Inc. (or _____ Water Control and Improvement District) is hereby designated the agent of Manville Water Supply Corporation for the purpose of prosecuting any required application to transfer this service area.

Sincerely,

President
Board of Directors

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT BETWEEN
LAKESIDE WATER CONTROL AND IMPROVEMENT
DISTRICT NO. 1 AND THE CITY OF PFLUGERVILLE, TEXAS
CONCERNING THE OPERATION, MAINTENANCE AND
MANAGEMENT OF WATER AND WASTEWATER FACILITIES
AND SERVICES WITHIN LAKESIDE WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 1.

This Professional Services Agreement ("Agreement") is made and entered into on the dates set forth below, by and among Lakeside Water Control and Improvement District No. 1 (the "District") and the City of Pflugerville (the "City"), a municipal corporation, each acting by and through its undersigned, duly authorized representative.

RECITALS

Tiemann Land and Cattle Development, Inc. ("Developer") plans to or is currently constructing a water distribution system and a sanitary wastewater collection and transportation system (collectively, the System) which will serve customers located within the geographic boundaries of the District, and the District is desirous of obtaining services for the competent operation, maintenance, and management of the system.

The City desires to provide operations, maintenance, and management services for the District's System.

The District and the City are desirous of entering into a definitive agreement pursuant to which the City shall operate, maintain and manage the System.

In consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the District agree as follows:

ARTICLE I
DEFINITIONS

The following terms and expressions when used in the Agreement have the following meanings unless the context clearly indicates otherwise:

A. "Agreement" means this "Professional Services Agreement between Lakeside Water Control and Improvement District No. 1 and the City of Pflugerville, Texas Concerning the Operation, Maintenance and Management of Water and Wastewater Facilities and Services within Lakeside Water Control and Improvement District No. 1."

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B. **"City"** means the City of Pflugerville, Texas, a municipal corporation with its principal offices at 100 E. Main Street in Pflugerville, Travis County, Texas.

C. **"Consent Agreement"** means the Comprehensive Development Agreement Between Tiemann Land and Cattle Development, Inc. and the City Pflugerville, Texas Including Consent to the Creation of Water Control and Improvement Districts and the Development of a Certain 1113 Acre Tract Located in Williamson and Travis Counties, Texas

D. **"Development"** means the lands within the current or future boundaries of Lakeside Water Control and Improvement District No. 1, or its successors.

E. **"District"** means the Lakeside Water Control and Improvement District No. 1. Such terms shall also mean each additional district (five in total) which may be created by Developer either by division of the District into multiple districts, pursuant to Article 51.748, Texas Water Code or by creation of multiple (five in total) new districts as provided in the Consent Agreement.

F. **"System"** means the Developer or District owned meters, lines, facilities, equipment, lands and rights-of-way for the storage, transportation and distribution of a potable water supply, and any extensions or additions thereto, that may be constructed to serve water customers in the Development, and the Developer or District owned facilities, equipment, lands and rights-of-way for the collection and transportation of wastewater, and any extensions or additions thereto, to be constructed to serve wastewater customers in the Development.

ARTICLE II ADMINISTRATIVE SERVICES

The following administrative services shall be provided to the District by the City.

1. **Organization.** The City shall administer the work, activities, and operations of the District's water and wastewater systems in accordance with the terms of this Agreement and the Consent Agreement.

2. **Personnel.** The City shall provide competent, trained personnel. System supervisors and/or operators shall be licensed or certified by the appropriate State governmental authority. Accounting, billing, and field personnel shall be trained to be professional and courteous in dealing directly with the District's customers.

3. **Start Up.** The City shall:

A. Maintain all of the District's customer information and records necessary to provide monthly billings to the District's customers.

B. Inventory and maintain a listing of all of the District's equipment including manufacturers' model and serial numbers, motor frame numbers and other such data as

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required to provide relevant information for the scheduled maintenance and repair or replacement of the equipment comprising the System.

4. Maintenance Scheduling. The City shall implement a Scheduled Maintenance Program for System equipment. The City shall ensure that System equipment is maintained in the same fashion and with the same frequency as equipment owned and operated by the City or as may be required by Texas Natural Resource Conservation Commission or other regulatory agency with jurisdiction. Because the District(s) are under the continuing supervision of the Texas Natural Resource Conservation Commission, City shall submit its Scheduled Maintenance Program to the District for comment.
5. 24 Hour Service. The City shall maintain 24-hour telephone and dispatch service with qualified personnel to respond to customer problems and equipment malfunctions within the District in the same manner and fashion as for retail customers located within the City limits.
6. Automatic Telephone Alarm. The City shall monitor computer or automatic dialed telephone alarm systems at any of the water and wastewater facilities within the District, which are installed and programmed to call the City's 24-hour telephone dispatch service. City shall notify the District of all alarm responses it makes to District facilities.
7. Employee Identification. The City's operating and maintenance employees shall be readily identifiable to customers within the District by distinctive clothing. Service vehicles shall have the City emblem prominently displayed.
8. Coordination with Consultants. The City shall coordinate with other consultants, such as attorneys, engineers, general manager, contractors, auditors, tax assessors, and financial advisors hired by the Developer and/or the District as necessary to maintain efficient operation of the System.
9. Inquiries and Correspondence. The City shall respond to inquiries or correspondence from governmental or regulatory authorities and the District's directors, customers or consultants in a prompt, professional manner.
10. District Meetings. The City's Water and Wastewater System Manager, or other City representative designated by the City Manager, shall attend regularly scheduled meetings which have an agenda item relating to the District's operations. The City representative will have direct knowledge of the District's on-going operations or agenda items as appropriate.
11. Customer Relations. The City shall render reasonable assistance in the promotion of good relations with the customers located within the District and act in a manner befitting a professional contractor of the District.

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ARTICLE III
WHOLESALE WATER AND WASTEWATER SERVICE

Wholesale water and wastewater service to the District shall be provided by Marville Water Supply Corporation and Kelly Lane Utility Company, Inc. Developer shall collect from builders and pay capacity fees due under the wholesale contracts directly to the wholesale supplier. All other fees and amounts due under the wholesale water and wastewater contracts shall be paid by the City directly to the wholesale supplier from revenues collected by the City for the District.

ARTICLE IV.
RETAIL WATER AND WASTEWATER MANAGEMENT SERVICES

1. **System Operations.** The City shall provide: personnel, vehicles, hand tools, spare parts, and other equipment necessary for the operation of the System.
2. **Bookkeeping Service.** The City shall provide bookkeeping services including: accounting for all transactions involving the District's construction, operating, and tax funds, in accordance with the requirements of the Texas Natural Resource Conservation Commission (or its successors) as outlined in the WATER DISTRICT ACCOUNTING MANUAL.
3. **Meter Reading, Billing and Collection.** The City shall read the District's water meters once each month and bill the customers at rates set by the District. The City shall collect all revenues arising from the rates set by the District. The City is authorized to make adjustments to water bills for clerical errors, over or under registration of water meters, erroneous meter readings, establishment of water usage during times when a meter has been inoperative and other similar adjustments. City will resolve billing disputes with individual customers consistent with its in-city procedure.
4. **System Inspection.** The City shall monitor the District's facilities daily, including weekends and holidays as required by state regulations. This shall include lift stations. City employees, whenever they are within the District boundaries, shall monitor the System in order to observe condition of fire hydrants, leaks, defects, damages and be alert for missing District equipment. City shall be responsible for resolving builder damage issues with the cooperation of the District.
5. **Daily Preventative Maintenance.** The City shall provide all personnel and equipment necessary for preventative maintenance tasks.
6. **Bulk Chemicals.** The City shall be responsible, at its own expense, for maintaining an adequate inventory of chlorine and other bulk chemicals required to operate the System.
7. **Expendable Items.** The City shall, at the City's expense, replace those items expended in the daily operation of the System. Those items include, but are not limited to, brooms, mops, dip nets, rakes, shovels, trash cans, hoses, nozzles, padlocks, and other such items.

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8. Monthly Operations Report. The City shall render a monthly operations report, which shall include the following information, or other information to which the parties can agree:
- A. Daily and monthly water flow data.
 - B. The number of gallons of water purchased by the District and the number of gallons billed to District's customers and a written explanation of the resulting difference.
 - C. Total number of service connections, water and wastewater.
 - D. Records regarding equipment repairs and replacements.
 - E. Abnormal changes in condition of the District's equipment, needed repairs and recommended schedules for the repair of such equipment.
 - F. Insurance claims filed on behalf of the District with the concurrence of the District.
 - G. Regular billing and collection reports including cash receipts, billings and receivables.
 - H. Delinquent customer reports, including information on termination of water service and protests or appeals made by customers.
 - I. Summary of meters installed, inspections performed and fees collected.
 - J. Damage to the System and the possible causes thereof. In instances where the damage may be attributable to a contractor, builder, utility company or other entity, the City shall use its best efforts to identify the party responsible for such damage, including administrative costs thereof, and include such information in the monthly report. The District will assess and collect the cost of repairs from the responsible part and remit to city.
 - K. Statistics relating to overall System operations, as appropriate.
 - L. Operations and maintenance cost data.
 - M. Information and reports as may be required for audit of the District's accounts.
9. Regulatory Reports. The City shall prepare and submit reports and other documents required by regulatory authorities. The City shall provide the District copies of all reports prior to submittals.
10. Regulatory Inspections. The City shall advise the District of inspections by regulatory authorities. When possible, the City shall schedule regulatory inspections to provide an opportunity for a representative of the District (District Engineer) to attend such inspections.

ARTICLE V.
INSTALLATION AND INSPECTION SERVICES

1. **General.** All meters and installation materials shall meet American Water Works Association standards and be in compliance with applicable city, county, or state codes. All installation and inspection fees shall be collected from the District's customers in advance, and shall be equal in amount to the installation and inspection fees charged by the City to in-city customers. The City shall maintain permanent records of meter services installed and tap fees paid. This includes a plat or map, as available, which shows the location of each meter installed and each sewer inspection performed.
2. **Residential Meters.** Residential 5/8 inch water meter sets made to a visible curb stop set near ground level will be made for a fee equal to the then current charge assessed in-city customers for such service. Non-standard residential water meter sets, including location buried curb stops, will be made by the City for the same fee assessed in-city customers for such service.
3. **Commercial Meters.** Commercial meter tie-ins will be made by the City for a price quoted for each installation in accordance with the applicable specifications, the price to be equal to that charged commercial customers located within the City limits.
4. **Water Tap Inspections.** Inspection of water taps and service lines will be made as necessary at no cost to the District but subject to the fee for in-city inspections, which shall be imposed according to City Ordinances.
5. **Sanitary Sewer Inspections.** The City shall inspect each sanitary sewer connection to the District's system to assure compliance with the District's specifications and procedures when and as necessary, at no cost to the District but subject to the fee for in-city inspections which shall be imposed according to City Ordinances. The fee will be collected from the customer requesting service.
6. **Other Inspections.** The City shall perform other inspections as requested or authorized by the District. Such inspections include, but are not limited to, grease traps, sample wells, cross connections or new facilities prior to acceptance by the District. The City may also participate in site inspections with contractors prior to the start of building activity to assist in verifying the condition of the District's system. All such other inspections shall be subject to such fees as are charged for similar in-city inspections or such fees authorized by the Consent Agreement.

ARTICLE VI.
MAINTENANCE, REPAIR AND REPLACEMENT SERVICES

1. **Maintenance.** The City shall provide all personnel, tools, spare parts, and equipment necessary to perform maintenance on the District's facilities and equipment. Maintenance shall include, but not be limited to, the following:
 - A. Maintenance or replacement of pumps, motors, valves and other equipment of facilities.

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- B. Calibration and servicing of instrumentation, control systems and other equipment.
- C. Other maintenance as necessary, which requires special skills and/or tools, performed in conformance with equipment manufacturer's recommendations to maintain warranties and to extend the useful life of the equipment.
2. Repair. The City shall provide all personnel and equipment necessary to perform repairs on, and shall bear sole cost responsibility for repair of, meters, lines, facilities, equipment, collection and distribution systems including, but not limited to, service line leaks, leaks at water meters, water main breaks, repairs to valves and fire hydrants, manhole repairs, and sewer line repair and cleaning, as needed. The City shall not, however, bear cost responsibility for initial repair of any equipment or facilities identified by the City as in need of repair on the date of assumption of repair responsibility pursuant to the terms of this Agreement. The District will assign contractors' warranties to the City, and the City will cause repairs to be made under the terms of the warranty. Subsequent to acceptance of facilities by the City, the City shall be responsible for all repairs or replacement of same.
3. Replacement. The City shall use a reasonable degree of care with respect to replacement of equipment or facilities but shall not be responsible to the District for any guarantees or warranties offered by others in connection with such equipment or facilities.
4. Emergency Response. The City shall maintain personnel and equipment for emergency response 24 hours per day, seven days per week, 365 days per year. Emergencies shall include, without limitation, water leaks, water line breaks, loss of water pressure, degradation of water quality occurring within the water supply system, and blockage in the sewage collection system. Additionally, the City shall undertake reasonable efforts to respond to requests by the District or its representatives or insistent residents.
5. Materials and Supplies. The cost of all materials and supplies used to provide services under this Agreement shall be borne solely by the City.

ARTICLE VII
COLLECTION, PAYMENT, AND REMITTANCE

The City and the District agree that City's compensation for retail water and wastewater operation, maintenance and management services provided by the City, shall be satisfied from, and shall equal, the revenues collected by the City from the District's retail water and wastewater customers for retail water and wastewater service, excluding any amounts collected by the City on behalf of the District. All fees and charges assessed the District's retail water and wastewater customers by the City shall be set by the District to recover the costs of operating the District, operating and maintaining District facilities, obtaining wholesale water and sewer service, and compensating the City for services provided under this Agreement. No additional charges, fees or the like shall be assessed against Developer or the District for such services. The City shall collect all revenues arising from rates set by the District, pay all expenses arising from the services provided under this Agreement, including amounts set by the District to compensate the City, and remit any remainder to the District.

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ARTICLE VIII
OPERATION AND MAINTENANCE OF DRAINAGE FACILITIES

At the option of the District, the City shall operate and maintain the District drainage and water detention facilities. Upon election of this option, the District and the City shall set mutually acceptable fees and charges to compensate the City for operating and maintaining the District's drainage and water detention facilities. The City shall collect such rates and disburse such revenues as provided in this Agreement for other rates collected by the City.

ARTICLE IX
MISCELLANEOUS PROVISIONS

1. **Responsibilities**

A. **City Responsibilities**. The City shall exercise a reasonable degree of care and diligence in the operation and maintenance of the System in conformity with applicable laws, rules and regulations.

B. **District Responsibilities**. The District represents that the System is in good working order, does not contain any known defective equipment or facilities, is suitable and adequate for the needs of its customers and that all of its facilities are, or shall be, built in accordance with local, state and federal regulations. The District shall provide:

i. All utilities and plant facilities necessary to commence operation of the System in a manner required to meet applicable regulations.

ii. A complete set of record drawings of the System and any other information necessary for the administration of the System.

2. **Relationship of the District and the City**. The City shall serve in the capacity of an independent contractor for the District during the period of this Agreement.

3. **Insurance**

A. The City shall at all times during the effectiveness of the Agreement maintain in full force and effect Liability and Worker's Compensation Insurance covering the City's performance under this Agreement. All insurance shall be provided by insurers licensed and approved to do an insurance business in the State of Texas. Before commencement of work hereunder, the City agrees to furnish the District Certificates of Insurance or other evidence satisfactory to the District to the effect that such insurance has been procured and is in force. The City shall carry the following types of insurance in at least the limits specified below:

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| <u>Coverages</u> | <u>Limits of Liability</u> |
|--|--|
| Worker's Compensation | Statutory |
| Employers' Liability | \$500,000.00 |
| Bodily Injury Liability Except Automobile | \$500,000.00 each occurrence \$1,000,000.00 aggregate |
| Property Damage Liability Except Automobile | \$500,000.00 each occurrence \$1,000,000.00 aggregate |
| Automobile Bodily Injury Liability | \$500,000.00 each person \$1,000,000.00 each occurrence |
| Automobile Property Damage Liability | \$250,000.00 each occurrence |
| Excess Umbrella Liability | \$2,000,000.00 each occurrence |

B. The District shall carry insurance in amounts adequate to cover the costs of repair or replacement of District facilities.

4. Indemnity. To the extent allowed by law, the City shall indemnify and save harmless the District and its officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limitation, any claim and damages arising from strict liability imposed in the District by statute, regulations, or common law, and 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, the negligent acts of City, its agents or employees, in the execution or performance of this Agreement. The liability that is assumed by City under the terms of this Paragraph shall not exceed the sum of \$2,000,000.00 which sum is the amount of liability insurance coverage required to be carried by City pursuant to this Agreement or maximum liability allowed by law, whichever is less.

5. Force Majeure. In the event that the City or the District is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, it is agreed that each party shall give written notice of such force majeure to the other party as soon as possible after the occurrence of the cause relied on and shall, therefore, be relieved of its obligations, so far as they are affected by such force majeure, during the continuance of any disabilities so caused, but for no longer. The term "force majeure," as employed herein, shall mean 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 or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or

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different cause not reasonably within the control of the party claiming such inability.

6. Full Compensation. The compensation to be paid to the City herein is inclusive of any tax, assessment, or other charge which may be imposed upon the City by any governmental authority as a result of performing its obligations pursuant to this Agreement.
7. Applicable Law. Venue and jurisdiction of any suit, right or cause of action arising under, or in connection with this Agreement shall lie exclusively in Travis County, Texas.
8. Notice. Whenever the provisions of this Agreement require notice to be given, such notice shall be given in writing by certified or registered mail and addressed to the party for whom intended at its then address of record and such notice shall be deemed to have been given when the notice was then mailed.
9. Term of Agreement. This Agreement shall take effect when executed by the City and District and shall continue in force for three years after execution unless terminated earlier as provided in this Agreement. Unless either party gives written notice of its election to terminate this Agreement at least 180 days prior to the end of any three-year period, this Agreement shall automatically be renewed for an additional three-year period at the expiration of each period.
10. No Additional Waiver Implied. The failure of any party hereto to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of the Agreement, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition by any other party hereto, but the obligation of such other party with respect to such future performance shall continue in full force and effect.
11. Modification. Except as otherwise provided in this Agreement, this Agreement shall be subject to change or modification only with the mutual written consent of the parties hereto or their successors and assigns.
12. Captions. The captions appearing at the first of each numbered section in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement, or any provision hereof, or in connection with the duties, obligations or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.
13. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall be not affected thereby.
14. Construction of Agreement. The parties agree that this Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement.

Attachment 5

15. Other Instruments. The parties hereto covenant and agree that they shall take such further actions, and shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Agreement.

16. Conflict Among Agreements. In the event a conflict is determined to exist between the terms and conditions of the Consent Agreement and this Agreement, the parties agree that the language of the Consent Agreement shall be controlling.

17. Termination. This Agreement shall be terminated at the time the land within the District has been annexed by the City of Pflugerville. Additionally, this Agreement may be terminated by the District if the City has failed to adequately operate and maintain the District's system pursuant to the terms and conditions of this Agreement; provided, however, that this right of termination may be enforced only after written notice has been given to the City of such failure and a reasonable opportunity is given to the City to cure the deficient performance, which in no event shall be less than ninety (90) days from the date of the notice.

EXECUTED in multiple copies, each of which shall constitute an original, on the dates set forth below:

ATTEST:

CITY OF PFLUGERVILLE, TEXAS

Karen Thompson

By: St. Jones

Its: City Manager

Date: 6/20/00

ATTEST:

LAKESIDE WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 1

Lenny Jett

By: St. E. Purcell

Its: President

Date: 5-24-00

1415-000-006.AGT

Attachment 5

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
LAKESIDE WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 AND THE
CITY OF PFLUGERVILLE, TEXAS**

This First Amendment to Professional Services Agreement is entered into to be effective as of the dates appearing below by and between Lakeside Water Control and Improvement District No. 1 (the "District") and the City of Pflugerville (the "City"), a municipal corporation, each acting by and through its undersigned, duly authorized representative.

RECITALS

The District and the City have previously entered into a Professional Services Agreement providing the terms and conditions by which the City shall provide operations, maintenance, and management services for the District's System (as such terms are defined in the Agreement).

The District and the City desire to amend the Agreement to specify how security deposits collected by the City on behalf of the District shall be treated.

AGREEMENT

In consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the District agree as follows:

1. Section 3 of the Agreement is replaced with the following:

Meter Reading, Billing and Collection, Customer Deposits. The City shall read the District's water meters once each month and bill the customers at rates set by the District. The City shall collect all revenues arising from the rates and charges set by the District. The City is authorized to make adjustments to water bills for clerical errors, over or under registration of water meters, erroneous meter readings, establishment of water usage during times when a meter has been inoperative and other similar adjustments. City will resolve billing disputes with individual customers consistent with its in-city procedure. The City shall collect and maintain security deposits on the District's behalf, and the District agrees that such deposits and interest earned thereon may be maintained in the City's accounts.

EXECUTED in multiple copies, each of which shall constitute an original, on the dates set forth below:

ATTEST:

CITY OF PFLUGERVILLE, TEXAS

Karen Thompson

By: St. Jones

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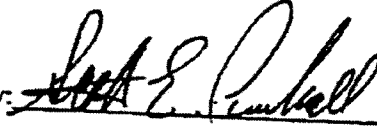
Its: CITY MANAGER

Date: 04/02/03

ATTEST:



LAKESIDE WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 1

By: 

Its: President

Date: February 5, 2003

Attachment 5

**SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
LAKESIDE WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 AND THE CITY OF
PFLUGERVILLE, TEXAS**

This First Amendment to Professional Services Agreement is entered into to be effective as of the dates appearing below by and between Lakeside Water Control and Improvement District No. 1 (the "District") and the City of Pflugerville (the "City"), a municipal corporation, each acting by and through its undersigned, duly authorized representative.

RECITALS

The District and the City have previously entered into a Professional Services Agreement providing the terms and conditions by which the City shall provide operations, maintenance, and management services for the District's System (as such terms are defined in the Agreement).

The District and the City desire to amend the Agreement to allow the City to contract and provide for solid waste disposal services in the District.

AGREEMENT

In consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the District agree as follows:

1. The Agreement is amended to add Article X as follows:

**ARTICLE X
SOLID WASTE DISPOSAL SERVICES**

The City shall make available Municipal Solid Waste Disposal Services (as hereinafter defined) to properties and residents located within the boundaries of the District. The City shall bill such retail customers directly and contract directly with a municipal solid waste disposal service provider to carry out its duties under this Article. Charges by the City to customers located within the District shall not exceed the charges paid by in-City customers except for an administrative fee that may be charged by the City to recoup its costs in administering such services within the District not to exceed \$2.00 per account per month.

The parties acknowledge that this Article does not create an exclusive contract with the City or any municipal solid waste service provider contracted by the City to provide services within the boundaries of the District. In the event that the District ever converts to a municipal utility district, the parties agree that such municipal utility district shall be successor in interest to the District for the purposes of this Agreement, and upon such conversion, this Agreement shall be exclusive for the purposes of the provision of municipal solid waste disposal services within the boundaries of the municipal utility district; provided however, neither the District nor the City shall be required to

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municipal utility district; provided however, neither the District nor the City shall be required to take any action that terminates or interferes with the rights of parties to a contract for solid waste disposal services.

Municipal Solid Waste Disposal Services shall mean, for the purposes of this article, the collection, transport and disposal and/or recycling of municipal solid waste.

EXECUTED in multiple copies, each of which shall constitute an original, on the dates set forth below:

ATTEST:

Karen Thompson

CITY OF PFLUGERVILLE, TEXAS

By: David B...
Its: City Manager
Date: 4-17-06

ATTEST:

Jerry L. Fitts

LAKESIDE WATER CONTROL AND
IMPROVEMENT DISTRICT NO. 1

By: [Signature]
Its: President
Date: November 8, 2005