

D & K Development Plant Site

FIELD NOTES FOR:

24,400 S.F. Tract

Harvey Foster Survey, Abstract No. 517

And A Castillo Survey, Abstract No. 271

Tarrant County, Texas

Being a 24,400 square foot tract of land out of the Harvey Foster Survey, Abstract No. 517, and the A. Castillo Survey, Abstract No. 271, a portion of which is in Lot A, Block 1, Mayfair Addition to Tarrant County, Texas according to Plat recorded in Cabinet A, Slide 429 of the Tarrant County Plat Records and being all of a tract conveyed to D & K Development Corp. by Doug Leavitt Custom Homes Inc. by Deed recorded in Volume 14003, Page 0325 of the Tarrant County Deed Records and a tract conveyed to D & K Development Corp. by Deed recorded in Volume 10991, Page 2084 of the Tarrant County Deed Records and being further described by metes and bounds as follows:

BEGINNING at a point in the west line of right-of-way for Hulen Street according to said Plat for Mayfair Addition, said Point of Beginning being north 00 degrees 21 minutes 43 seconds east a distance of 105.21 feet from the southeast corner of said Lot A, Block 1, Mayfair Addition;

THENCE north 89 degrees 20 minutes 37 seconds west a distance of 110.26 feet to a point in the east line of a tract conveyed to Carlos Alfaro by deed recorded as instrument# D 10008225 in the Tarrant County Deed Records;

THENCE north 00 degrees 39 minutes 37 seconds east for a distance of 80.41 feet to the southwest corner of said tract conveyed to D & K Development by Doug Leavitt Custom Homes, Inc.;

THENCE north 00 degrees 53 minutes 27 seconds east for a distance of 141.48 feet to a point in the south line of right-of-way for Farm to Market Road 1187;

THENCE south 89 degrees 31 minutes 36 seconds east along said south right-of-way for FM 1187 for a distance of 109.19 feet to a point in the west line of said right-of-way for Hulen Street;

THENCE south 00 degrees 29 minutes 54 seconds west along the common line between said D & K Development Tract and right-of-way for Hulen Street for a distance of 141.58 feet to a point;

THENCE south 00 degrees 21 minutes 43 seconds west continuing along said Hulen Street right-of-way for a distance of 81.20 feet to the Point of Beginning and containing 24,400 square feet of land.

Exhibit G

Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

THIS AGREEMENT (this "Agreement") dated the 6th day of June, 2013, is by and among EMCAD Water and Wastewater, LLC, a Texas limited liability company ("Buyer"), D&K DEVELOPMENT CORP., a corporation organized under the laws of the State of Texas ("Seller"), and DEWEY D. DRURY, JR. ("Shareholder"), and sets forth the terms and conditions by which Buyer shall acquire certain assets of Seller used in Seller's operation of a wastewater utility system. Buyer, Seller and the Shareholder are referred to collectively as the "Parties."

RECITALS

WHEREAS, Seller owns and operates a wastewater utility business located in Tarrant County, Texas (the "Business"); and

WHEREAS, Seller desires to sell and Buyer desires to purchase certain assets utilized in the Business on and subject to the terms and conditions set forth herein; and

WHEREAS, without limiting the generality of the foregoing, pursuant to the terms of this Agreement and in accordance with Texas Water Code §13.301, the Parties desire that, except to the extent included in the Excluded Assets, Seller transfer to Buyer (i) the Assets, (ii) the retail wastewater utility service rights to the area in which Seller is certificated to provide such service (the "Transfer Area"), and (iii) ownership of certain facilities, lines, meters, equipment and easements associated with the Transfer Area; and

WHEREAS, the Shareholder, as sole shareholder of Seller, joins in the execution of this Agreement for the purpose of evidencing his consent to consummation of the foregoing transactions and for the purpose of making certain representations and warranties to, and covenants and agreements with, Buyer.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the covenants herein contained, the Parties agree as follows:

Section I - Definitions

1.1 Definitions. In this Agreement, in addition to the other terms defined herein, each of the following terms has the meaning specified or referred to in this Section 1.1:

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling, controlled by or under common control with, such Person. For purposes of this definition, "control" (including, with correlative meaning, the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person through the ownership of more than 50% of such Person's voting securities, by contract or otherwise.

"Assets" shall mean all right, title, and interest of Seller in and to all the assets owned by Seller and utilized in the Business, except for the Excluded Assets, including all: (a) fee property, real property, leaseholds and subleases, improvements, fixtures, easements, rights-of-way and other appurtenances thereto (the "Real Property"), including, without limitation, the real property described on Schedule 3.1(f); (b) tangible personal property (including, without

limitation, all machinery, equipment, inventories and supplies and those items identified on Schedule 3.1(l)); (c) Customer Deposits; (d) Permits; (e) contracts, licenses, leases and agreements and other similar arrangements and rights thereunder ("Contracts"); (f) franchises, approvals, permits, licenses, orders, registrations, variances and similar rights obtained from Governmental Authorities, including the TCEQ; (g) intellectual property of any type, including the name "D&K Development Corp." or any derivation thereof, any trade names, service marks, trade secrets and know-how; (h) books, ledgers, files, documents, correspondence, lists, maps, drawings, plans, specifications, warranties and plats; (i) water rights or claims to water rights; and (j) accounts receivable.

"Business" shall have the meaning set forth above.

"Buyer" shall have the meaning set forth above.

"Closing" shall have the meaning set forth in Section 2.5(a) hereof.

"Closing Date" shall have the meaning set forth in Section 2.5(a) hereof.

"CCN" shall mean the Certificate of Convenience and Necessity of Seller.

"Customer" shall mean a residential (whether single or multi-family dwelling) or commercial property that has been metered for wastewater utility service from Seller in the Transfer Area.

"Customer Deposits" shall have the meaning set forth in Section 3.1(p) hereof.

"Customer List" shall have the meaning set forth in Section 3.1(p) hereof.

"Disclosure Schedules" shall mean the disclosure schedules of Seller set forth in Section III.

"Encumbrance" shall mean any liens, charges, pledges, options, mortgages, deeds of trust, security interests, claims, restrictions (whether on voting, sale, transfer, disposition or otherwise), licenses, sublicenses, easements and other encumbrances of every type and description, whether imposed by Law, agreement, understanding or otherwise.

"Environmental, Health and Safety Laws" shall mean all Laws concerning pollution or protection of the environment, public health and safety, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or chemical, industrial, hazardous or toxic materials or waste into ambient air, surface water, ground water or lands or otherwise, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Emergency Planning and Community Right to Know Act of 1986, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Hazardous Materials Transportation Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Federal Safe Drinking Water Act, the Federal Radon and Indoor Air Quality Research Act of 1986 and the Occupational Safety and Health Act, as all such Laws or acts have been amended.

"Excluded Assets" shall mean the Utility Deposits, cash held by Seller, original corporate minute books, corporate seal and other books, ledgers, files and plans of Seller and any of the Contracts or other items listed on Schedule 1.1, and all rights and property interests related to any of the foregoing items.

"Excluded Liabilities" shall have the meaning set forth in Section 2.8 hereof.

"Governmental Authority" means any government or any agency, bureau, commission, court, authority, department, official, political subdivision, administrative body, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"Hazardous Substance" shall mean petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import under any of the Environmental, Health and Safety Laws.

"Knowledge" shall mean, in respect of any person or entity, the actual knowledge of such person or entity and each manager, director and officer of such entity after making all due and reasonable inquiries.

"Last Month Ending Receivables" shall have the meaning set forth in Section 2.2(a).

"Law" or "Laws" shall mean any law, rule, regulation, code, plan, injunction, judgment, order, decree, ruling, charge or ordinance of any Governmental Authority, all of the foregoing as now or hereafter in effect.

"Ordinary Course of Business" shall mean the ordinary course of business consistent with past custom and practice.

"Owner Policy" shall have the meaning set forth in Section 7.1(l).

"Parties" shall have the meaning set forth above.

"Person" shall mean any natural person and any corporation or other legal entity recognized by law as a person.

"Purchase Price" shall have the meaning set forth in Section 2.2(a) hereof.

"Regulatory Approvals" shall mean any approval and compliance required pursuant to Chapter 30 of the Texas Administrative Code and the rules and regulations promulgated thereunder to operate the Business or in connection with the consummation of the transactions contemplated by this Agreement; such approval and compliance is administered by and through the TCEQ.

"Seller" shall have the meaning set forth above.

"Seller System" shall mean the wastewater treatment plant and the sanitary sewer collector system of Seller servicing the Transfer Area.

"STM Application" shall have the meaning set forth in Section 5.1(c) hereof.

"Survey" shall have the meaning set forth in Section 6.3 hereof.

"System Map" shall have the meaning set forth in Section 3.1(x) hereof.

“Tariffs” shall mean that certain Sewer Utility Tariff in the name of Seller filed with the TCEQ and having a most recent effective date of April 29, 2013, a copy of which is attached hereto as Exhibit A.

“Tax” shall mean any federal, state, or local income, gross receipts, license, payroll, employment, severance, unemployment, disability, real property, personal property, sales, use, transfer or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not.

“Tax Authority” means any regulatory authority responsible for the imposition, assessment or collection of any Tax (domestic or foreign).

“Tax Return” shall mean any return, statement, declaration, notice, certificate or other document that is or has been filed with or submitted to, or required to be filed with or submitted to, any Tax Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any legal requirement related to any Tax.

“TCEQ” shall mean the Texas Commission on Environmental Quality or any successor agency or agencies thereto.

“Title Commitment” shall have the meaning set forth in Section 6.1(a) hereof.

“Title Company” shall have the meaning set forth in Section 6.1(a) hereof.

“UCC Searches” shall have the meaning set forth in Section 6.2 hereof.

“Utility Deposit” shall mean money deposited by Seller with a utility company (i.e. electric, gas) related to the operation of the Business.

Section II - Purchase and Sale of Assets; Closing

2.1 Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, Buyer agrees to purchase from Seller, and Seller agrees to sell, transfer, assign and deliver to Buyer, all of the Assets free and clear of all Encumbrances other than the Permitted Encumbrances and the Assumed Liabilities on the Closing Date against receipt by Seller of the Purchase Price (as adjusted as provided herein).

2.2 Purchase Price; Good Faith Deposit; Prorations.

- (a) Subject to the following adjustments and any other adjustments set forth in this Agreement, in consideration for the sale of the Assets, Buyer agrees to pay Seller on the Closing Date the aggregate amount (the “Purchase Price”) of (i) THREE HUNDRED THOUSAND Dollars (\$300,000) plus (ii) an amount equal to the accounts receivable of Seller as of the last day of the calendar month ending immediately prior to the Closing Date (“Last Month Ending Receivables”); provided, however, there shall be deducted from the Purchase Price payable at Closing the sum of THIRTY THOUSAND Dollars (\$30,000.00) (the “Withheld Sum”) which shall be retained by Buyer in accordance with Section 2.4.
- (b) Within two (2) business days after the execution of this Agreement by all parties hereto, Buyer shall deliver to Seller the sum of \$100.00 (the “Option Fee”) as

independent consideration for the termination option granted to Buyer under Section 6.5. In the event that Buyer timely terminates this Agreement in accordance with Section 6.5, the Option Fee shall not be refunded to Buyer; otherwise, the Option Fee shall be credited toward the Purchase Price at the Closing. In the event that this Agreement has not been lawfully terminated prior thereto, then within two (2) business days after the expiration of the Due Diligence Period, Buyer shall deliver to Seller the sum of \$5,000.00 (the "Good Faith Deposit"). The Good Faith Deposit shall be held by Seller and disbursed in accordance with one of the following provisions, whichever shall apply:

- (i) If, on the Closing Date, the transactions contemplated under this Agreement shall be duly consummated, then at Closing, the Good Faith Deposit shall be credited towards the Purchase Price;
 - (ii) If this Agreement is terminated pursuant to Sections 10.1(a) – (d) of this Agreement, then promptly after such termination, the Good Faith Deposit shall be returned to Buyer; or
 - (iii) If this Agreement is terminated pursuant to Section 10.1(e) of this Agreement, Seller shall be entitled to keep, as its sole and exclusive remedy, the Good Faith Deposit as liquidated damages, except that the foregoing shall not limit or otherwise affect any obligations of Buyer under this Agreement that by their express terms survive the term of this Agreement. The parties recognize that the determination of damages in the event of a termination of this Agreement pursuant to such Section 10.1(e) will be difficult and that the disbursement of the Good Faith Deposit to Seller shall constitute liquidated damages and shall not constitute a penalty.
- (c) All items of revenue and expense related to the Business, including without limitation, ad valorem Taxes relating to the Assets, and utility bills, lease payments and other monthly recurring payments related to the Assets, shall be prorated as of the Closing Date in such a manner that will result in (i) Seller having paid for and received the benefit of those items attributable to the period of time prior to and on the Closing Date, and (ii) Buyer having paid for and received the benefit of those items attributable to the period of time following the Closing Date. The Purchase Price shall be adjusted to account for such proration. If the actual amounts to be prorated pursuant to the foregoing provisions are not known on the Closing Date, then the proration shall be made on the Closing Date using the best evidence then available (the "Estimated Proration"), and thereafter, when actual amounts are received, a cash settlement will be made between Seller and Buyer.
- (i) If any Estimated Prorations are used at Closing, then Buyer and Seller shall attempt jointly to obtain actual figures and complete the cash settlement of the related prorated items within 120 days after the Closing Date, which resolution, if achieved, shall be binding upon all parties to this Agreement and not subject to dispute or review. If Buyer and Seller cannot finalize such cash settlement to their mutual satisfaction within

such 120-day period, Buyer and Seller shall, within the following 10 days, jointly designate an independent public accounting firm to be retained to review the Estimated Prorations and any other relevant documents. The cost of retaining such independent public accounting firm shall be borne equally by Seller and Buyer. Such firm shall report its conclusions in writing to Buyer and Seller and such conclusions as adjustments pursuant to this Section 2.2 shall be conclusive on all parties to this Agreement and not subject to dispute or review.

- (ii) If, as a result of such adjustments, Buyer is determined to owe an amount to Seller, or Seller is determined to owe an amount to Buyer, such amount shall be paid to Seller or Buyer, as applicable, within 5 business days after such adjustments are agreed to by Seller and Buyer or, if applicable, within 5 business days after the delivery of the independent public accounting firm's report under Section 2.2(c)(i) above

2.3 [*Intentionally deleted.*]

2.4 **Withheld Sum.** Subject to the provisions of this Section 2.4, the Withheld Sum shall be paid to Seller on the date that is 180 days after the Closing Date (the "Withheld Sum Payment Date"). The Withheld Sum shall be reduced by the amount of any amount of the Last Month Ending Receivables that are not collected by Buyer on or before the Withheld Sum Payment Date. In addition, if on or prior to the Withheld Sum Payment Date, (a) any valid claim shall have been delivered by Buyer to Seller for indemnification pursuant to Section VIII, and (b) full payment relating to such claim has not, at such date, been made by Seller to Buyer (the "Indemnification Amount"), the amount of the Withheld Sum to be paid by Buyer to Seller on such date shall be reduced by an amount equal to the Indemnification Amount (and, if the Indemnification Amount exceeds the Withheld Sum, Seller shall promptly pay the amount of such excess to Buyer). Buyer shall not be required to make any additional payment with regard to the amount of the Withheld Sum that was retained for the Indemnification Amount unless and until the first to occur of (x) the final agreement between Seller and Buyer of the amount of the Indemnification Amount, or (y) the determination by a court of final appeal of the extent of the Indemnification Amount (in each case, "Actual Damages") and then only to the extent that the amount of the Indemnification Amount retained by Buyer from the Withheld Amount exceeds the Actual Damages (such excess is referred to herein as the "Excess Retained Amount"). In such case, Buyer shall deliver the Excess Retained Amount to Seller within 14 days of the determination of the Actual Damages in accordance with the preceding sentence.

2.5 **The Closing.**

- (a) The closing of the transactions contemplated by this Agreement (the "Closing") shall take place in Fort Worth, Texas, at the offices of Harris, Finley & Bogle, PC, located at 777 Main Street, Suite 3600, on or before the fifth (5th) business day after the conditions set forth in Section VII of this Agreement have been satisfied or waived or such other date as the Parties may determine (the "Closing Date").
- (b) At the Closing, Seller shall deliver the following to Buyer: (i) a Bill of Sale in a form mutually agreeable to Seller and Buyer (the "Bill of Sale"); (ii) a special

warranty fee simple deed and, if needed, a special warranty easement deed, both in a form mutually agreeable to Seller and Buyer (the "Deeds"); (iii) such other instruments of transfer, assignment and conveyance (the "Other Instruments") in form and substance reasonably satisfactory to Buyer sufficient to transfer to and effectively vest in Buyer all right, title, and interest in the Assets together with possession of the Assets free and clear of all Encumbrances, other than the Permitted Encumbrances; (iv) any notices required under the Texas Water Code or any other applicable federal, state or local laws, rules or regulations which are provided to Buyer consistent with the provisions of Section 6.1(a); and (v) any other certificates, resolutions or documents reasonably requested by Buyer in connection with the Closing, including, without limitation, (A) a certificate executed by an officer of Seller certifying that all of the representations and warranties made by Seller herein are true and correct in all material respects as of the Closing Date and that Seller has performed all of its obligations hereunder through the Closing Date, (B) a Certificate of Completion as required by the TCEQ, and (C) a letter to the TCEQ confirming the transfer of the customer deposits to Buyer pursuant to this Agreement and the corresponding reduction in the Purchase Price in an amount equal to such deposits.

- (c) At the Closing, Buyer shall deliver the following to Seller: (i) the Other Instruments (to the extent required to be delivered by Buyer), (ii) acknowledgement of receipt of any notices required under the Texas Water Code or any other applicable Laws and provided to Buyer consistent with the provisions of Section 6.1(a), and (iii) any other certificates, resolutions or documents reasonably requested by Seller or the Shareholder in connection with the Closing, including, without limitation, a certificate executed by an officer of Buyer certifying that all of the representations and warranties made by Buyer herein are true and correct in all material respects as of the Closing Date and that Buyer has performed all of its obligations hereunder through the Closing Date. Buyer shall pay at Closing the Purchase Price (less the Withheld Sum and as further adjusted pursuant to the provisions hereof) via wire transfer to Seller at Closing in accordance with wire transfer instructions provided by Seller to Buyer at least two (2) business days prior to the Closing.
- (d) Buyer and Seller acknowledge that the Excluded Assets shall not be conveyed to Buyer. Seller and Shareholder shall be solely responsible, jointly and severally, for any liability or obligation related to the Excluded Assets.

2.6 Notice. The Parties acknowledge and agree that Seller provided notice to Buyer as required in §13.301(k) of the Texas Water Code before any of the parties executed this Agreement.

2.7 Transfer of Interest in Pending or Required Regulatory Approvals: The Parties acknowledge that the application(s) relating to the Business as set forth in this Section 2.7 are pending at the TCEQ ("Pending Applications"). The only Pending Application is Application No. 37399-C. Seller is identified as the applicant in the Pending Applications and the Pending Applications relate to the amendment of the CCN to add additional property to the service area

covered by the CCN. Buyer acknowledges that, in connection with the Closing, the TCEQ may, in its sole and absolute discretion, require Seller and/or Buyer to amend, modify, supplement or re-initiate any Pending Application in order to obtain the required Regulatory Approvals. Upon the Closing, Buyer shall assume any and all subsequent financial obligations required by the TCEQ to prosecute any Pending Application not included in the Excluded Assets and which are otherwise transferred to Buyer pursuant to the terms of this Agreement or any other new applications Buyer elects to file at the TCEQ. Seller agrees to provide reasonable assistance in the transfer at the Closing of its interests in any Pending Applications at the TCEQ which are not included in the Excluded Assets. The Parties further agree to cooperate with each other and the TCEQ prior to the Closing in pursuit of any required Regulatory Approvals. Notwithstanding anything herein to the contrary, Buyer shall not be required to accept, or continue to prosecute, any Pending Application which contains amendments, modifications or supplements by the TCEQ which are not satisfactory to Buyer in its sole discretion.

2.8 Assumed Liabilities. From and after the Closing Date, Buyer will assume and discharge all obligations of Seller which accrue and are due and performable subsequent to the Closing Date under (a) the Contracts to be assigned to Buyer and listed on Schedule 3.1(i), and (b) the Customer Deposits as transferred to Buyer and identified on Schedule 3.1(p) (collectively, the "Assumed Liabilities"); provided that (x) the rights thereunder have been duly and effectively assigned to Buyer, and (y) Buyer shall not assume any liability arising from or related to any breach of the Contracts by Seller prior to the Closing Date. Other than the Assumed Liabilities, Buyer does not assume any direct or indirect duties, liabilities or obligations of Seller of any kind or nature, fixed or unfixed, known or unknown, accrued, contingent or otherwise and it is understood that all such liabilities are retained by Seller, and Seller shall be responsible for the payment and discharge of all such liabilities (such liabilities herein being defined as the "Excluded Liabilities").

Section III - Representations and Warranties

3.1 Of Seller: Except as set forth in the Disclosure Schedules, Seller represents and warrants that as of the date hereof and as of the Closing Date:

- (a) Seller has all the requisite power, authority and capacity to enter into this Agreement;
- (b) Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas;
- (c) this Agreement has been duly executed and delivered by Seller and constitutes a legally binding and enforceable obligation of Seller enforceable against Seller in accordance with its terms;
- (d) this Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order, or Permit or other government permit applicable to Seller, nor will it result in the creation of an Encumbrance, or require consent from or notification of any lender or other third party except for the Regulatory Approval;

- (e) the balance sheet and statement of income for Seller for the fiscal period ended December 31, 2012 and the period beginning January 1, 2013 and ending March 31, 2013, attached hereto as Schedule 3.1(e) (collectively, the "Financial Statements"), have been prepared and maintained in accordance with generally accepted accounting principles applied on a consistent basis and accurately, completely and fairly present Seller's financial position and the results of operations as of the respective dates thereof; other than as disclosed in the Financial Statements, there are no undisclosed liabilities of any nature associated with the Business; since the date of the last balance sheet contained in the Financial Statements attached hereto as Schedule 3.1(e), there has not been any material adverse change in the Business, operations, properties, prospects, Assets or any condition of Seller, and no event has occurred or condition exists that may result in such a material adverse change;
- (f) Schedule 3.1(f) is a true, correct and complete list of all Real Property owned, beneficially or of record, or leased, subleased, owned by easement, operated or occupied, by Seller (including any leases pursuant to which Seller is either the lessee, sublessee, lessor or sublessor of the Real Property) and utilized in the Business (individually the "Property," and collectively, the "Properties"). Seller has good and indefeasible title to the Real Property. The Real Property owned by Seller is owned in fee simple absolute (or by leasehold estate or easement) as indicated on Schedule 3.1(f), free and clear of all Encumbrances, except as noted as a "Permitted Encumbrance" on such Schedule or in the Title Commitment, the UCC Searches or the Survey. Each lease or sublease covering the Properties is valid, subsisting in full force and effect and binding upon the parties thereto in accordance with its terms in all material respects, and Seller has satisfied in full or provided for all of its respective liabilities and obligations thereunder requiring performance prior to date hereof. Except for those Properties subject to leases where Seller is a lessor or sublessor, Seller is in possession of the Properties and, with respect to any leasehold properties, has a valid and subsisting leasehold interest in such Properties pursuant to the respective lease. Seller has good and valid title to all its personal property free and clear of all Encumbrances;
- (g) to the Knowledge of Seller, there are and have been no violations by Seller of any Environmental, Health and Safety Laws and, to the Knowledge of Seller, no violations of any such Laws have been committed on properties owned by Seller, except as set forth in Schedule 3.1(g);
- (h) there are no pending actions, claims, suits or proceedings to which Seller is a party, or to the Knowledge of Seller threatened, that may prevent or delay the Closing of the transactions contemplated hereby or have any effect on the Assets;
- (i) other than any Contracts related to any Excluded Assets, Seller is not a party to any Contract other than as set forth on Schedule 3.1(i) and, as of the date hereof and upon consummation of the transactions contemplated hereby, is not and will not be in default under any Contract and, to the Knowledge of Seller, no other party to any Contract is in default thereunder;

- (j) *[Intentionally deleted]*;
- (k) all returns of Taxes, information, and other reports required to be filed in any jurisdiction by Seller have been timely filed and all such returns are true and correct in all material respects and all Taxes of Seller has been paid or provided for and fully accrued in the Financial Statements. In addition with respect to the Tax status of Seller, there are no unpaid taxes or unfiled tax returns of either Seller or the Shareholder that could result in an Encumbrance against any of the Assets and:
 - (i) There are no Tax liens with respect to any Assets.
 - (ii) No deficiency for any Taxes has been proposed, asserted or assessed against Seller that has not been resolved and paid in full.
 - (iii) No audits or other administrative proceedings or court proceedings are presently pending with regard to any Taxes or tax returns of Seller, Seller has not been advised of any issue that has arisen in any examination of Seller by any Governmental Authority, and no Governmental Authority has notified Seller that it intends to investigate the Tax affairs of Seller.
- (l) Schedule 3.1(l) sets forth all material tangible property owned by Seller, and, except as set forth on Schedule 3.1(l), such Assets are adequate for the uses to which they are being put and without the need for material repair or replacement, and are sufficient for the continued conduct of the Business after the Closing Date in substantially the same manner as conducted prior to the Closing; the Assets and the Excluded Assets comprise all of the assets and properties (including any real estate) utilized by Seller in the operation of the Business;
- (m) Schedule 3.1(m) sets forth all rights, licenses and permits of Seller associated with the Business (the "Permits"); all such Permits are in full force and effect and are valid and enforceable in accordance with their respective terms; other than the Pending Applications, such Permits constitute all the licenses and permits required for the conduct of the Business as presently conducted, and all such Permits will be in full force and effect at Closing; subject to obtaining the Regulatory Approvals, all such Permits will be transferred to Buyer at Closing in full force and effect, and Seller shall use commercially reasonable efforts to assist Buyer in obtaining any Regulatory Approvals related to the Permits;
- (n) except as set forth in Schedule 3.1(n), Seller and the Assets currently are in all material respects in substantial compliance with all Laws that are applicable to it or to the conduct or operation of the Business or the ownership or use of any the Assets, including, without limitation, any rules or regulations of the TCEQ, the Environmental Protection Agency, the Department of Environmental Quality and any Governmental Authority;
- (o) except as otherwise set forth on Schedule 3.1(o), Seller has no employees and is not a party to any collective bargaining, employment or consulting agreement;

- (p) Schedule 3.1(p) sets forth a list of billed customer accounts of Seller, which is accurate in all material respects, as of February 20, 2013 (the "Customer List"), and for each Customer reflected on the Customer List, Schedule 3.1(p) sets forth the address of such Customer and the date and amount of any deposit made by the Customer (the "Customer Deposits");
- (q) [*Intentionally deleted*];
- (r) the Tariffs and the CCN set forth all of the rights and obligations of Seller and the Business with respect to the provision of services to the Customers and the rates included therein are true and correct and in full force and effect as of the Closing Date;
- (s) accounts receivable of Seller have arisen only from bona fide transactions, and Seller has no Knowledge of any facts or circumstances which would result in any material increase in the un-collectability of its accounts receivable; and, to the Knowledge of Seller, all accounts receivable of Seller are valid and enforceable claims and obligations arising from the operations of Seller and are not subject to any valid defenses or offsets as of the date hereof; such accounts receivable are subject only to non-material adjustment, as needed, to reflect the most recent billing cycle before Closing;
- (t) Schedule 3.1(t) sets forth a list and brief description of the insurance policies relating to the insurable properties of Seller or the conduct of the Business. All premiums due and arising thereon have been paid on a current basis and such policies are in full force and effect;
- (u) except as set forth on Schedule 3.1(u), Seller has made no commitment, and has undertaken no obligation, oral or written, fixed or contingent on the occurrence of any other action or event, to construct any lift station, install any pumps, lay any lines or take any similar actions;
- (v) no shareholder, director or officer of Seller or any Affiliate of Shareholder, director or officer is currently a party, directly or indirectly, to any transaction with Seller;
- (w) neither Seller nor any of its Affiliates has employed any broker, finder, advisor or intermediary in connection with the transactions contemplated by this Agreement that would be entitled to a broker's, finder's or similar fee or commission on connection therewith or upon the consummation thereof; and
- (x) Attached hereto as Exhibit B is a map of the Seller System (the "System Map"). To the Knowledge of Seller, the System Map provides an accurate depiction of all material lines constituting the Seller System, including proper identification of the trunk lines and lift stations of the Seller System.

3.2 Of the Shareholder: Except as set forth in the Disclosure Schedules, the Shareholder represents and warrants that as of the date hereof and as of the Closing Date:

- (a) the Shareholder has all the requisite power and authority and capacity to enter into this Agreement;
- (b) this Agreement has been duly executed and delivered by the Shareholder and constitutes a legally binding and enforceable obligation of the Shareholder enforceable against the Shareholder in accordance with its terms;
- (c) this Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order or government permit to which the Shareholder is a party or bound, nor will it result in the creation of a lien on the Assets, or require consent from a third party or any governmental entity, except for the Regulatory Approval; and
- (d) there are no pending actions, claims, suits or proceedings to which the Shareholder is a party, or to the Knowledge of the Shareholder threatened, that may prevent or delay the Closing of the transactions contemplated hereby or have any effect on the Assets.

3.3 Nature of Representations and Warranties. The representations and warranties of Seller and the Shareholder contained in this Agreement are complete and accurate and do not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements made not misleading.

3.4 Updating Disclosure Schedules: From the date of this Agreement until the Closing Date, if any event, condition, fact or circumstance occurs that would require a change to the Disclosure Schedules if such Disclosure Schedule was dated as of the date of the occurrence, then Seller or the Shareholder, as applicable, shall promptly deliver to Buyer an update to the applicable Disclosure Schedule specifying such change. Such update shall be deemed to supplement or amend the applicable Disclosure Schedule for the purposes of (i) determining the accuracy of any representations and warranties made by Seller or the Shareholder, as applicable, in this Agreement, and (ii) determining whether any of the conditions set forth in Section VII have been satisfied; *provided* that if the Closing shall occur, then all matters specifically disclosed pursuant to this Section 3.4 at or prior to the Closing shall be waived and Buyer shall not be entitled to make a claim on or pursuant to the terms of this Agreement with respect to such matters.

Section IV - Representations and Warranties of Buyer

4.1 Buyer represents and warrants to Seller and the Shareholder as follows:

- (a) Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) this Agreement has been duly executed and delivered by Buyer and constitutes a legally binding and enforceable obligation of Buyer enforceable against Buyer in accordance with its terms;

- (c) there are no proceedings or other actions commenced or threatened against Buyer that may prevent or delay the Closing of the transactions contemplated hereby;
- (d) Buyer has all the requisite power and authority and capacity to enter into this Agreement;
- (e) this Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order or government permit to which Buyer is a party or bound, nor will it result in the creation of a lien, or require consent from a third party or any governmental entity, except for the Regulatory Approval;
- (f) the representations and warranties of Buyer contained in this Agreement are complete and accurate and do not and will not include any untrue statement of a material fact or omit to state any material fact necessary to make the statements made not misleading; and
- (g) neither Buyer nor any of its Affiliates has employed any broker, finder, advisor or intermediary in connection with the transactions contemplated by this Agreement that would be entitled to a broker's, finder's or similar fee or commission in connection therewith or upon the consummation thereof.

Section V - Agreements Through Closing

5.1 During the period from the date hereof until the Closing:

- (a) Seller shall provide, upon receipt of two business days prior written notice and during Seller's normal business hours, Buyer with reasonable access to the Assets and its Customers, suppliers, officers, directors and employees, including access for the purposes of conducting the environmental investigations or audits contemplated in Section 6.5; provided, however, that Buyer shall not contact any of Seller's Customers without first contacting Shareholder and arranging such contacts with Shareholder;
- (b) Seller shall not, without the consent of Buyer, acquire or dispose of any Assets outside the Ordinary Course of Business, terminate or amend any Contract to be assumed by Buyer, increase the compensation of any employees or commit to do any of the foregoing or make any other commitments or take any actions that are outside the Ordinary Course of Business, except as Seller deems necessary to protect all or any portion of the Assets from loss, damage or destruction;
- (c) Promptly after the full execution of this Agreement, Buyer will file a Sale, Transfer or Merger application ("*STM Application*") with the TCEQ to formally transfer the Transfer Area and associated Customers and infrastructure from Seller to Buyer. The form of the STM Application shall be acceptable to Seller and Buyer. Buyer and Seller shall cooperate to the maximum extent possible to satisfy all Closing conditions, including obtaining all regulatory requirements necessary for the transactions contemplated hereby, including the Regulatory Approvals (including those pertaining to the STM Application), and the cost of

obtaining such Regulatory Approvals shall be borne 50% by Seller and 50% by Buyer;

- (d) Seller shall conduct the Business in the usual, regular and ordinary manner consistent with past practice (except as Seller deems necessary to protect all or any portion of the Assets from loss, damage or destruction) and use commercially reasonable efforts to preserve Seller's present relationships with persons having business dealings with Seller;
- (e) Seller shall promptly advise Buyer of any fact or condition that causes or constitutes a breach of any of Seller's representations and warranties, or if Seller becomes aware of the occurrence, after the date of this Agreement, of any fact or condition that would or could have a materially adverse effect on the Assets or the Business;
- (f) Buyer shall promptly advise Seller and the Shareholder of any fact or condition that causes or constitutes a breach of any of Buyer's representations and warranties; and
- (g) Seller and Shareholder will not, and will cause Seller's officers, directors and advisors not to, directly or indirectly, solicit, initiate or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information to, or consider the merits of any inquiries or proposals from, any person (other than Buyer) relating to any transaction involving the sale of the Business or Assets (other than in the Ordinary Course of Business), or any of the capital stock of Seller, or any merger, consolidation, business combination or similar transaction involving Seller; provided, however, that the foregoing shall not preclude the receipt and review by Seller or Shareholder or any of their respective officers, directors or advisors of any unsolicited offers regarding any of such matters prior to Closing.

Section VI - Title Commitment and Survey; Due Diligence Period

6.1 Commitment Documentation. Within thirty (30) days after the date of this Agreement, Seller, at its sole cost and expense, shall deliver or cause to be delivered to Buyer the following:

- (a) a Commitment for Title Insurance (the "*Title Commitment*") from Rattikin Title Company (the "*Title Company*") setting forth the status of title of the Real Property described on Schedule 3.1(f) and showing all Encumbrances and other matters of record, if any, relating to the Real Property. If the Title Commitment indicates that the Real Property is located in a certificated service area of a utility service provider or in any water, sewer, drainage or flood control district, the Title Company shall immediately prepare and deliver to Buyer any required notices, and such notices, and the matters described therein, shall constitute Permitted Encumbrances, and Buyer waives any right to terminate this Agreement or seek damages or exercise any other rights or remedies due to the fact that any such

notices were not delivered to Buyer prior to execution of this Agreement provided such notice is delivered prior to the expiration of the Due Diligence Period; and

- (b) a true, correct and legible copy of all documents referred to in the Title Commitment, including, without limitation, plats, deeds, restrictions and easements.

6.2 UCC Searches. Buyer may elect, at its option and expense, to obtain current searches (the "UCC Searches") performed by Capitol Commerce Reporter, UCC Reporting Service or other similar service acceptable to Buyer reflecting all UCC-1 filings which relate to the Real Property and the Assets which reflect Seller or any other person who has owned the Real Property within the last five (5) years as "Debtor".

6.3 Survey. Within thirty (30) days after the date of this Agreement, Buyer may, at its cost and expense, have a survey of the Real Property prepared by a surveyor selected by Buyer (the "Survey"). For purposes of the description to be included in the Owner Policy to be issued pursuant to Section 7.1(l) and the Deeds, the field notes prepared by the surveyor shall control over any conflicts or inconsistencies with Schedule 3.1(f), and such field notes shall be incorporated herein by this reference upon their completion and shall constitute the property description attached to the Deed.

6.4 Title Examination; Encumbrances. Buyer shall have fifteen (15) days from the date it has received the Title Commitment, Survey and UCC Searches (the "Title Examination Period") in which to examine the same and notify Seller (the "Objection Notice") of those Encumbrances subject to which Buyer will accept title to the Real Property (the "Permitted Encumbrances") and those Encumbrances which Buyer finds objectionable. If Buyer so notifies Seller before the expiration of the Title Examination Period, Seller may, but shall not be obligated to, undertake to eliminate or modify such objectionable matters to the satisfaction of Buyer. In the event Seller is unable or unwilling to effectuate the elimination or modification of such matters, Seller shall notify Buyer in writing of same (the "No-Cure Notice") within 15 days after receipt of the Objection Notice, whereupon Buyer may, within 10 days after receipt of the No-Cure Notice, by written notice to Seller, terminate this Agreement, in which event the portion of the Good Faith Deposit paid by Buyer shall be returned to Buyer and thereafter neither Seller nor Buyer shall have any further duties or obligations hereunder. Buyer shall be conclusively deemed to have accepted title to the Property as shown on the Survey, the Title Commitment and the UCC Searches if Buyer fails to object to same prior to the end of the Title Examination Period or if Buyer fails to terminate this Agreement within 10 days after receipt of the No-Cure Notice. All matters approved or deemed approved by Buyer pursuant to Section 6.1(a) or this Section 6.4 shall constitute Permitted Encumbrances. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY HEREIN, BUYER'S RIGHT TO TERMINATE THIS AGREEMENT PURSUANT TO THIS SECTION 6.4 SHALL EXPRESSLY TERMINATE UPON THE EXPIRATION OF THE DUE DILIGENCE PERIOD (AS DEFINED BELOW), WHEREUPON BUYER'S APPROVAL OF THE TITLE COMMITMENT, THE SURVEY AND THE UCC SEARCHES SHALL BECOME ABSOLUTE AND ALL ITEMS REFERENCED THEREIN SHALL BE CONSIDERED "PERMITTED ENCUMBRANCES." Seller shall not place, or allow to be placed, any new Encumbrance of any nature against or relating to the Real Property between the date hereof and the Closing. In the event any such new Encumbrance is placed

against or otherwise becomes relative to the Real Property between the date hereof and the Closing, notwithstanding the other provisions of this Section 6.4 or Section 6.5, Seller, at its sole cost and expense, shall cure or remove such Encumbrance and shall deliver within thirty (30) days of the date such Encumbrance is placed against or otherwise becomes relative to the Real Property an amended Title Commitment, Survey and UCC Search reflecting the cure of such Encumbrance.

6.5 Due Diligence Period: Buyer is hereby granted the right and option to conduct a due diligence investigation of the Assets being purchased, including, without limitation, obtaining environmental site assessments and review of documents to be furnished by Seller to Buyer hereunder, commencing on the date this Agreement is fully executed and expiring forty-five (45) days after Buyer shall have received the Title Commitment and the documents described in Section 6.1(b) (the "Due Diligence Period"). Buyer, at its sole and absolute discretion, may terminate this Agreement by giving written notice of termination to Seller prior to 5:00 p.m., CT, on the date the Due Diligence Period expires, whereupon this Agreement shall be terminated and the parties shall have no further obligations to each other, except for any obligations under this Agreement that by their express terms survive the term of this Agreement. The failure to give timely written notice of termination shall constitute a waiver of Buyer's right to terminate this Agreement as set forth in this Section 6.5. Buyer hereby indemnifies and agrees to defend and hold Seller and Shareholder harmless of and from all loss, liabilities, damages, claims and expenses suffered by or asserted against Seller and/or Shareholder and arising from (i) any physical damage to the Real Property or other assets of Seller or the Shareholder, or (ii) any personal injury or death, in either event caused by the due diligence investigation by Buyer or its agents and/or contractors. BUYER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES THAT BUYER HAS OR WILL HAVE, PRIOR TO THE END OF THE DUE DILIGENCE PERIOD, THOROUGHLY INSPECTED AND EXAMINED THE ASSETS TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE PURCHASE OF THE ASSETS. BUYER HEREBY FURTHER ACKNOWLEDGES AND AGREES THAT BUYER IS RELYING SOLELY UPON THE INSPECTION, EXAMINATION, AND EVALUATION OF THE ASSETS BY BUYER AND THAT BUYER IS PURCHASING THE ASSETS ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS, WITHOUT REPRESENTATIONS, WARRANTIES OR COVENANTS, EXPRESS OR IMPLIED, OF ANY KIND OR NATURE; PROVIDED, HOWEVER, NOTHING CONTAINED IN THIS SECTION 6.5 SHALL LIMIT THE REPRESENTATIONS, COVENANTS AND WARRANTIES SET FORTH HEREIN OR IN THE SPECIAL WARRANTY DEEDS TO BE DELIVERED FROM SELLER TO BUYER AT THE CLOSING.

6.6 Confidentiality: Buyer agrees that it will treat and hold all information, data, reports, interpretations, forecasts and records containing or otherwise reflecting information relating to Seller or the Business that is furnished to Buyer by or on behalf of Seller in confidence with the same degree of care as Buyer would accord its own confidential information and, it will not, without Seller's express prior written consent or as otherwise provided herein, disclose the confidential information to any third party. Confidential information shall not include any information available to the general public, or information previously known to Buyer other than any acquired from Seller or its representatives.

Section VII - Conditions to Close

7.1 **Buyer's Conditions to Close.** Unless waived by Buyer in its sole discretion, Buyer's obligation to consummate the transactions contemplated by this Agreement is subject to the following conditions:

- (a) (i) the representations and warranties of Seller and the Shareholder shall be accurate as of the date of this Agreement and at and as of the Closing Date as though such representations and warranties had been made at and as of the Closing Date, and (ii) Seller and the Shareholder shall have performed and complied with all covenants and conditions required to be performed and complied with by them at or prior to the Closing Date;
- (b) all statutory requirements for the valid consummation of the transactions contemplated herein shall have been fulfilled and all governmental consents, approvals or authorizations necessary for the valid consummation of the transactions contemplated herein shall have been obtained including, but not limited to, the Regulatory Approvals;
- (c) no action or suit shall have been commenced and no Laws shall have been enacted or proposed that reasonably may be expected to prohibit Buyer's ownership of the Assets or render Buyer unable to purchase the Assets, make the sale of the Assets illegal or impose material limitations on the ability of Buyer to exercise full rights of ownership of the Assets;
- (d) all third party consents, approvals and waivers necessary to permit Seller to transfer the Assets to Buyer, or necessary to permit Buyer to conduct the Business as presently conducted, shall have been obtained, including any Regulatory Approvals (including those pertaining to the STM Application or the transfer to Buyer of all Seller's interest in any Pending Applications which are not included in the Excluded Assets);
- (e) the Due Diligence Period shall have expired without the termination of this Agreement by Buyer pursuant to the provisions of Section 6.5;
- (f) the Managers or Members of Buyer shall have approved the transactions contemplated by this Agreement; *provided, however*, this condition shall be deemed to have been satisfied unless Buyer exercises its right to terminate this Agreement pursuant to this provision on or before the expiration of the Due Diligence Period;
- (g) Seller shall have delivered to Buyer at Closing certificates executed by an officer of Seller that certifies the due adoption by Seller's board of directors of resolutions attached to such certificate authorizing the transactions and the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and the taking of all actions contemplated hereby and thereby;
- (h) Seller shall have delivered to Buyer at Closing certificates executed by the President of Seller and the Shareholder, dated as of the Closing Date, that certifies

that the representations and warranties of the Party delivering such certificate contained in this Agreement are true and correct as of the Closing Date and that the Party giving such certificate has performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by it at or prior to Closing;

- (i) Seller shall have delivered to Buyer at Closing a certificate of the Secretary of State of Texas, dated as of a recent date, duly certifying as to the existence and good standing of Seller under the laws of the State of Texas;
- (j) Seller shall have provided to Buyer at Closing (i) a true and correct listing (with backup) of the Last Month Ending Receivables and (ii) the number and identity of all customer accounts of Seller as of the date that is five (5) business days prior to the Closing Date, which shall be true and correct in all material respects (to update and supplement the information set forth in Schedule 3.1(p)) (including the amount of any Customer Deposits);
- (k) there shall have been no material adverse change in the financial condition, profitability or the results of operations of the Business from the date of this Agreement until the Closing Date; and
- (l) Seller, at its sole expense, shall have caused the Title Company to issue to Buyer, or deliver the Title Company's irrevocable and unconditional commitment to issue to Buyer, an Owner Policy of Title Insurance issued by the Title Company and insuring, to the satisfaction of Buyer, that Buyer is the owner of the Real Property subject only to the Permitted Encumbrances and the standard printed exceptions, with the exception for taxes limited to the year in which the Closing occurs and subsequent years and subsequent assessments for prior years due to change in land usage or ownership ("Owner Policy").

7.2 Seller's and Shareholder's Conditions to Close. Unless waived by Seller and the Shareholder in their sole discretion, Seller and the Shareholder's obligations to consummate the transactions contemplated by this Agreement are subject to the following conditions:

- (a) (i) the representations and warranties of Buyer shall be accurate as of the date of this Agreement and at and as of the Closing Date as though such representations and warranties had been made at and as of such date, and (ii) Buyer shall have performed and complied with all covenants and conditions required to be performed and complied with Buyer at or prior to the Closing Date;
- (b) all statutory requirements for the valid consummation of the transactions contemplated herein shall have been fulfilled and all governmental consents, approvals or authorizations necessary for the valid consummation of the transactions contemplated herein shall have been obtained including, but not limited to, the Regulatory Approvals;
- (c) no action or suit shall have been commenced and no Laws shall have been enacted or proposed that reasonably may be expected to prohibit Buyer's ownership of the Assets or render Buyer unable to purchase the Assets, make the

sale of the Assets illegal or impose material limitations on the ability of Buyer to exercise full rights of ownership of the Assets;

- (d) all third consents, approvals and waivers necessary to permit Seller to transfer the Assets to Buyer, or necessary to permit Buyer to conduct the Business as presently conducted, shall have been obtained, including the Regulatory Approvals (including those pertaining to the STM Application or the transfer to Buyer of all Seller's interest in any Pending Applications which are not included in the Excluded Assets); *provided, however*, that for any such third party consents, approvals or waivers other than those required by a regulatory authority ("Disclosed Third Party Consents"), this condition shall be deemed satisfied if *prior to Closing* Buyer shall have confirmed in writing it is waiving receipt of such Disclosed Third Party Consent and that it will indemnify Seller and the Shareholder from any third party claims which arise from the failure to obtain such Disclosed Third Party Consent;
- (e) Buyer shall have delivered to Seller and the Shareholder at Closing a certificate executed by an officer of Buyer that certifies (i) the due adoption of Buyer's governing body of resolutions attached to such certificate authorizing the transactions, and (ii) resolutions authorizing the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and the taking of all actions contemplated hereby and thereby;
- (f) Buyer shall have delivered to Seller and the Shareholder at Closing a certificate executed by the Chief Executive Officer and/or President of Buyer, dated as of the Closing Date, that certifies that the representations and warranties of Buyer contained in this Agreement are true and correct as of the Closing Date and that Buyer has performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by it at or prior to Closing;
- (g) Buyer shall have delivered to Seller and the Shareholder at Closing a certificate of the Secretary of State of Texas, dated as of a recent date, duly certifying as to the existence and good standing of Seller under the laws of the State of its formation;

Section VIII - Indemnification; Attorneys' Fees

8.1 Survival; Right to Indemnification Not Affected By Knowledge. All representations, warranties, covenants and obligations in this Agreement or any document delivered pursuant to this Agreement will survive Closing for a period of two (2) years. Except for any matter to the extent disclosed in the Disclosure Schedules, the right to indemnification will not be affected by any investigation or any knowledge acquired at any time with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant or obligation.

8.2 Indemnity by Seller: Seller shall indemnify and hold harmless Buyer and its officers, directors, members, managers, shareholders, employees, agents and assigns from and against any claims, liabilities, losses, damages, fees, penalties and costs, including reasonable attorneys' fees,

of which Buyer had no Knowledge as of the Closing (collectively, "Claims") and to which Buyer may become subject and arising out of, resulting from, or in any way related to:

- (a) a breach of, or the failure to perform or satisfy, any of the representations, warranties, and covenants made by Seller in this Agreement;
- (b) violations or claimed violations of any Environmental, Health and Safety Laws which relate in any way to the ownership, occupancy, use, operation or conditions of the Business or any present or former Real Property or Asset utilized by Seller in connection with its operations of the Business or otherwise related to the conduct of the Business on or before the Closing Date;
- (c) any cleanup or remediation requirement or liability or any other damages or liability arising from a release or threatened release or exposure to any Hazardous Substances to the extent that those Hazardous Substances are present at any present or former Real Property or in any Asset utilized by Seller in connection with its operations of the Business or otherwise related to the conduct of the Business on or before the Closing Date;
- (d) any Taxes attributable to Seller; and
- (e) any Excluded Liabilities,

in each case provided that a notice regarding the matter giving rise to such indemnification obligation shall have been given to Seller within two (2) years following the Closing Date, except with respect to indemnification for (1) matters arising under Sections 8.2(b), 8.2(c) and 8.2(d), which shall be subject to the appropriate statute of limitations, and (2) matters arising under Section 8.2(e), which shall not be subject to any time restrictions or limitations. Seller shall reimburse Buyer for any legal or other expenses reasonably incurred by Buyer in relation to any matter for which Seller shall be required to indemnify any person or entity under this Agreement as such expenses are incurred. Notwithstanding anything herein to the contrary, the Shareholder shall indemnify and hold harmless Buyer and its officers, directors, shareholders, employees, agents and assigns from and against any claims, liabilities, losses, damages, fees, penalties and costs, including reasonable attorneys' fees which Buyer may become subject to or arising out of or resulting from or related to, a breach by the Shareholder of the representations and warranties of the Shareholder set forth in Section 3.2 of this Agreement (but no other Section).

8.3 Indemnity by Buyer: Buyer shall indemnify and hold harmless Seller and the Shareholder and their respective officers, directors, shareholders, employees, agents and assigns from and against any claims, liabilities, losses, damages, fees, penalties, costs, including reasonable attorneys' fees to which Seller and/or Shareholder may become subject and arising out of, resulting from, or in any way related to:

- (a) a breach of, or the failure to perform or satisfy, any of the representations, warranties, and covenants made by Buyer in this Agreement;

- (b) violations or claimed violations of any Environmental, Health and Safety Laws which occur after the Closing Date and relate in any way to the ownership, occupancy, use, operation or conditions of any of the Assets;
- (c) any cleanup or remediation requirement or liability or any other damages or liability arising from a release or threatened release or exposure to any Hazardous Substances related to the Assets to the extent that such release or exposure occurs after the Closing Date;
- (d) any Taxes attributable to Buyer;
- (e) any Assumed Liabilities; and
- (f) any third party claims which arise from the failure to obtain any Disclosed Third Party Consents to the extent provided for in Section 7.2(d),

in each case provided that a notice regarding the matter giving rise to such indemnification obligation shall have been given to Buyer within two (2) years following the Closing Date, except with respect to indemnification for (1) matters arising under Section 8.3(b) or Section 8.3(c) for which such notice must be given to Buyer within three years following the Closing Date, (2) matters arising under Section 8.3(d), which shall be subject to the appropriate statute of limitations, and (3) matters arising under Section 8.3(e), which shall not be subject to any time restrictions or limitations. Buyer shall reimburse Seller and/or the Shareholder for any legal or other expenses reasonably incurred by Seller and/or the Shareholder in relation to any matter for which Buyer shall be required to indemnify any person or entity under this Agreement as such expenses are incurred.

8.4 Attorneys' Fees. In the event that any Party (the "Defaulting Party") defaults or is in breach of any of its obligations under this Agreement and, as a result thereof, the other Party (the "Nondefaulting Party") seeks to legally enforce its rights hereunder against the Defaulting Party, then, in addition to all damages and other remedies to which the Nondefaulting Party is entitled by reason of such default or breach, the Defaulting Party shall be entitled to recover from the Defaulting Party an amount equal to all costs and expenses (including reasonable attorneys' fees) paid or incurred by the Nondefaulting Party in connection with such enforcement.

Section IX - Covenants After Closing

9.1 Non-Compete.

- (a) During the two (2) year period following the Closing, neither Seller, the Shareholder nor any of the respective officers, directors or other Affiliates of Seller or Shareholder, shall, directly or indirectly, compete with Buyer in Buyer's operation of the Assets or with Buyer in the wastewater utility business by purchasing or otherwise obtaining an ownership interest in any wastewater utilities in the State of Texas.
- (b) Any successor corporation to Buyer or any transferee or assignee thereof shall be entitled to the benefits of this non-competition covenant.

- (c) The Parties intend that the covenants contained in this Section 9.1 shall be construed as a series of separate covenants, one for each separate legal jurisdiction in which such covenant applies. If, in any judicial proceeding, a court shall refuse to enforce any of the separate covenants included in this Section 9.1, then such unenforceable covenant shall be deemed eliminated from these provisions for the purpose of those proceedings to the extent necessary to permit the remaining separate covenants to be enforced. Notwithstanding the foregoing, it is the intent and agreement of the Parties that the covenants in this Section 9.1 be given the maximum force, effect and application permissible under applicable Law.
- (d) Each covenantor acknowledges and agrees that, in the event of a breach or a default under this Section 9.1 or any covenant contained in this Section 9.1, neither Buyer nor any successors or assigns thereof will have an adequate remedy at law, and Buyer and any successor or assign thereof shall be entitled to equitable relief including, but not limited to, injunctive relief, in addition to any legal or other remedies which may be available to it hereunder.
- (e) Each covenantor agrees that the provisions of this non-competition covenant are reasonable and necessary for Buyer's protection and that if any portion thereof shall be held contrary to law, invalid or unenforceable as to one or more periods of time, areas of business activities, or any part thereof, the remaining provisions shall not be affected but shall remain in full force and effect and that any such invalid or unenforceable provision shall be deemed, without further action on the part of any person, modified and limited to the extent necessary to render the same valid and enforceable in such jurisdiction.
- (f) Each covenantor agrees that in the event of a breach of this non-competition covenant, the term and duration hereby shall be extended with respect to the breaching covenantor by the period of the duration of such breach.

9.2 Operations. Seller and the Shareholder shall provide reasonable assistance to Buyer in the administration and operation of the Assets and the Business for a period of up to sixty (60) days after the Closing Date. Buyer shall reimburse the actual out-of-pocket costs incurred by Seller and/or the Shareholder for such assistance.

9.3 Records and Documents. For a period of three years after the Closing Date, at any Party's reasonable request, the non-requesting Party(ies) shall provide the requesting Party and its representatives with access during normal business hours to, and the right to make copies of, those records and documents solely related to the Business for the period of time prior to the third anniversary date of the Closing Date. Seller shall have the right to retain copies of all or any records and documents related to the Business, including general ledger information.

Section X - Termination

10.1 Termination. Anything herein to the contrary notwithstanding, this Agreement shall terminate upon the occurrence of any of the following events:

- (a) by written consent of Buyer and Seller;
- (b) on written notice from Buyer to Seller or Seller to Buyer if the Closing shall not have occurred on or before 120 days after the date that the Regulatory Approvals are obtained or deemed to have been satisfied in accordance with Section 7.2(d); *provided, however*, that if the Closing has not occurred by such date due to a breach of this Agreement by one of the Parties, that Party may not terminate this Agreement);
- (c) upon the issuance of an order by the TCEQ denying the Regulatory Approvals requested by the Parties;
- (d) on written notice from Buyer to Seller that Seller or the Shareholder has breached any of its or his respective representations, warranties or obligations hereunder and such breach has not been cured by Seller or the Shareholder or waived by Buyer within ten (10) days after Seller's receipt of written notice of such breach from Buyer; or
- (e) on written notice from Seller to Buyer that Buyer has breached any of its representations, warranties or obligations hereunder and such breach is not cured by Buyer or waived by Seller within ten (10) days after Buyer's receipt of written notice of such breach from Seller.

10.2 No Liabilities in Event of Termination. In the event of any termination of this Agreement as provided above, this Agreement shall forthwith become wholly void and of no further force or effect and there shall be no liability on the part of Buyer, Seller or the Shareholder or their respective officers, directors, or agents, except for any obligations under this Agreement that by their express terms survive the term of this Agreement, and except that (i) the provisions of Section 11.1 hereof shall remain in full force and effect; and (ii) nothing contained herein shall release any Party from liability for any willful failure to comply with any provision, covenant or agreement contained herein.

Section XI - General Provisions

11.1 Expenses. Each Party shall be responsible for its own expenses incurred in connection with this Agreement.

11.2 Further Assistance. Seller and the Shareholder shall execute and deliver, without additional expense to Seller, such additional documents and take such additional actions as are reasonably necessary to transfer the Assets and the Business to Buyer.

11.3 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF TEXAS. ANY DISPUTES HEREUNDER SHALL BE RESOLVED IN THE STATE OR FEDERAL COURTS LOCATED IN TARRANT

COUNTY, TEXAS, AND THE PARTIES HEREBY SUBMIT TO THE JURISDICTION OF SUCH STATE AND FEDERAL COURTS.

11.4 Notice. Any notice, request, instruction, correspondence or other document required to be given hereunder by either Party to the other ("Notice") shall be in writing and delivered in person or by courier service requiring acknowledgment of delivery or mailed by certified mail, postage prepaid and return receipt requested, or by fax, as follows:

If to Buyer, addressed to:

EMCAD Water and Wastewater, LLC
Attn: Donald J. Clayton
2492 Matterhorn Dr.
Wexford, Pennsylvania 15090
Fax: (724) 934-1956

With a copy to:

Harris, Finley & Bogle, P.C.
777 Main Street, Suite 3600
Fort Worth, Texas 76102
Attention: Bill F. Bogle
Fax: (817) 332-6121

If to Seller or the Shareholder, addressed to;

D&K Development Corp.
5112 Wildflower Way, Fort Worth, Texas 76123 (if delivered)
P.O. Box 172081, Arlington, Texas 76003 (if mailed)
Attn: Dewey D. Drury, Jr.
Fax: (817) 346-0520

With a copy to:

Miller & Haney, L.L.P.
7701 S. Stemmons Freeway, 2nd Floor
Corinth, Texas 76210
Attention: Kevin Haney
Fax: (817) 332-3041

Notice given by personal delivery or courier service shall be effective upon actual receipt. Notice given by mail shall be effective three (3) business days after deposit with the United States postal service. Notice given by fax shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if received after the recipient's normal business hours. All Notices by fax shall be confirmed promptly after transmission in

writing by regular mail or personal delivery. Any Party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

11.5 Public Announcements. Except for any notice or public filing requirements of the TCEQ, prior to Closing, any public announcement or similar publicity with respect to this Agreement or the transactions contemplated hereby will be issued, if at all, only at such time and in such manner as Seller and Buyer mutually determine. Unless consented to by the other party in advance or required by applicable law, prior to the Closing, both of Seller and Buyer shall keep this Agreement strictly confidential and may not make any disclosure of this Agreement to any person, except for any disclosure to directors, managers, officers, employees, agents and consultants of the Parties in connection with the analysis and consummation of the transactions contemplated, and the exercise and performance of the Parties' rights and obligations, under this Agreement.

11.6 No Waiver. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any Party in exercising any right, power or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable Law, (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one Party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other Party; (b) no waiver that may be given by a Party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one Party will be deemed to be a waiver of any obligation of such Party or of the right of the Party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

11.7 Amendments. This Agreement may be amended, supplemented or otherwise modified only by a written agreement executed by the Parties (or their permitted assigns).

11.8 Savings Clause. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

11.9 Interpretation. The headings of Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Section" or "Sections" refer to the corresponding Section or Sections of this Agreement. All words used in this Agreement will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms.

11.10 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that execution of this Agreement by a party and the delivery of such party's signature by facsimile transmission or electronic (e-mail) transmission shall be

fully effective as the original signature of such party to the fullest extent as if it were the original copy thereof.

11.11 Sales and Transfer Taxes. Seller shall be responsible for and pay any applicable sales, stamp, transfer, documentary, use, registration, filing and other taxes and fees (including any penalties and interest) that may become due or payable in connection with this Agreement and the transactions contemplated hereby.

11.12 Entire Agreement. This Agreement (including the Exhibits and the Disclosure Schedules attached hereto) constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings, oral and written, between the Parties with respect to the subject matter hereof, including any letters of intent and confidentiality agreements among the Parties.

11.13 Assignability. This Agreement shall not be assigned by Seller without the prior written consent of Buyer. Except for an assignment to a Permitted Assignee (defined below), Buyer shall not be entitled to assign this Agreement prior to Closing, without obtaining the prior written consent of Seller. For purposes of this Agreement, the term "Permitted Assignee" shall mean (i) an Affiliate of Buyer, (ii) family members and business associates of Buyer, including, without limitation, Persons employed by, serving in any capacity with, or owning any portion of Tangibl, LLC, (iii) the group from Ni America, including, but not limited to, Ed Wallace, Mark Daday, Carey Thomas and Andy Thomas, and (iv) another waste or wastewater company that is, at the time of such assignment, qualified to do business in Texas.

11.14 Employees. Buyer shall have no obligation to employ or to provide benefits to any of the employees of Seller. Buyer shall have no responsibility, liability or obligation, whether to employees, former employees, their beneficiaries or to any other person with respect to, and Seller and the Shareholder shall, jointly and severally, indemnify and hold Buyer harmless with respect to, any employee compensation or any benefit plan, practice, program or arrangement maintained for employees of Seller prior to the Closing (including, without limitation, any pension, retirement, bonus, medical, dental or other health plan or life insurance or disability plan).

11.15 Mail. Seller authorizes and empowers Buyer on or after the Closing Date to receive and open all mail received by Buyer relating to the Business or Assets. Seller shall promptly deliver to Buyer any mail or other communication received by them after the Closing Date pertaining to the Business or the Assets and any cash, checks or other instruments of payment in respect of the Assets.


11.16 Use of Name. Following the Closing Date, Seller and the Shareholder agree that neither they, nor any of their Affiliates shall use the names, trade names or slogans of the Business, all of which are transferred to Buyer pursuant hereto, including the name "D&K DEVELOPMENT CORP." or any derivation thereof, whether or not that name is a name, trade name or slogan of the Business.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

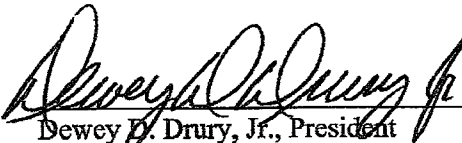
BUYER:

EMCAD Water and Wastewater, LLC

By: 
Name: Donald J. Clayton
Title: Manager

SELLER:

D&K Development Corp.

By: 
Dewey D. Drury, Jr., President

SHAREHOLDER:

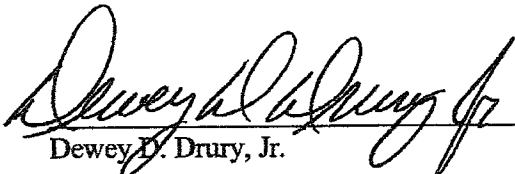

Dewey D. Drury, Jr.

EXHIBIT A

Tariffs

**SEWER UTILITY TARIFF
FOR**

D & K Development Corp.
(Utility Name)

P.O. Box 172081
(Business Address)

Arlington, TX 76003
(City, State, Zip Code)

(817) 443-3746
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

20816

This tariff is effective in the following county(ies):

Tarrant

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivision or systems:

Mayfair, Mayfair South & Mayfair West

This tariff is effective in the following water quality systems:

WQ0013518-001 D & K Development Corp.

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE	2
SECTION 2.0 -- SERVICE RULES AND POLICIES.....	3
SECTION 3.0 -- EXTENSION POLICY.....	9

APPENDIX A -- SERVICE AGREEMENT
APPENDIX B - APPLICATION FOR SERVICE

TEXAS COMM. ON ENVIRONMENTAL QUALITY
37399-C, CCN 20816, APRIL 29, 2013
APPROVED TARIFF BY J. H. G.

D & K Development Corp.

Sewer Tariff

(Utility Name)

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

Meter Size	Monthly Minimum Charge	Gallonage Charge
5/8" or 3/4"	\$ 85.00 (Includes gallons)	\$ n.a. per 1000 gallons, 1 st _____ gallons
1½ "	\$ _____	
2"	\$ _____	
3"	\$ _____	
4"	\$ _____	

Volume charges are determined based on average consumption for winter period which includes the following months: n.a.

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash___, CheckX, Money OrderX, Credit Card___ Other (specify) _____

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

REGULATORY ASSESSMENT

1.0%

TCEQ RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

Section 1.02 - Miscellaneous Fee

TAP FEE

\$ 600.00

TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL CONNECTION. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Large Connection Tap)

Actual Cost

TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

D & K Development Corp.

Sewer Tariff

(Utility Name)

SECTION 1.0 – RATE SCHEDULE (Continued)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

a) Nonpayment of bill (Maximum \$25.00)	\$ <u>25.00</u>
b) Customer's request that service be disconnected	\$ <u>40.00</u>
c) _____	\$ _____

TRANSFER FEE

\$ 25.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL)

\$ 5.00

TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE

\$ 25.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)

\$ 50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT

1/6TH OF ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE

\$ n.a.

WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [30 TAC 291.21(K)(2)]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

D & K Development Corp.

Sewer Tariff

(Utility Name)

SECTION 2.0 -- SERVICE RULES AND POLICIES

The utility will have the most current Texas Commission on Environmental Quality Rules, Chapter 291, Water Utility Regulation, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or Commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Sewer Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the TCEQ Rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the Commission.

Section 2.03 - Fees and Charges & Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 - Miscellaneous Fees of this tariff. The utility will keep records of the deposit and credit interest in accordance with TCEQ Rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Refund of deposit - If service is not connected, or after disconnection of service, the utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The utility may refund the residential customer's deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

(B) Tap or Reconnect Fees

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the TCEQ or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property (ies) is located.

Fees in addition to the regular tap fee may be charged to cover unique costs not normally incurred as permitted by 30 T. A. C. 291.86(a)(1)(C) if they are listed on this approved tariff. For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the Utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap and utility cut-off and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the tap location to the place of consumption. Customers will not be allowed to use the utility's cutoff.

2.06 Access to Customer's Premises

All customers or service applicants shall provide access to utility cutoffs at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Section 2.07 - Back Flow Prevention Devices

No water connection shall be made to any establishment where an actual or potential contamination or system hazard exists without an approved air gap or mechanical backflow prevention assembly. The air gap or backflow prevention assembly shall be installed in accordance with the American Water Works Association (AWWA) standards C510, C511 and AWWA Manual M14 or the University Of Southern California Manual Of Cross-Connection Control, current edition. The backflow assembly installation by a licensed plumber shall occur at the customer's expense.

(Utility Name)

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

The back flow assembly shall be tested upon installation by a recognized prevention assembly tester and certified to be operating within specifications. Back flow prevention assemblies which are installed to provide protection against high health hazards must be tested and certified to be operating within specifications at least annually by a recognized back flow prevention device tester. The maintenance and testing of the back flow assembly shall occur at the customer's expense.

Section 2.10 - Billing

(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the TCEQ Rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Section 2.11- Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order. If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.12 - Service Disconnection

(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the TCEQ Rules.

(B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the TCEQ Rules.

(Utility Name)

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Section 2.13 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 24 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

Section 2.14 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the Commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Section 2.15 - Quality of Service

The utility will plan, furnish, and maintain and operate production, treatment, storage, transmission, and collection facilities of sufficient size and capacity to provide continuous and adequate service for all reasonable consumer uses and to treat sewage and discharge effluent of the quality required by its discharge permit issued by the Commission. Unless otherwise authorized by the Commission, the utility will maintain facilities as described in the TCEQ Rules.

Section 2.16 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through the Texas Commission on Environmental Quality complaint process. Pending resolution of a complaint, the commission may require continuation or restoration of service.

D & K Development Corp.

Sewer Tariff

(Utility Name)

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

Section 2.17 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0 -- EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

LINE EXTENSION AND CONSTRUCTION CHARGES: NO CONTRIBUTION IN AID OF CONSTRUCTION MAY BE REQUIRED OF ANY CUSTOMER EXCEPT AS PROVIDED FOR IN THIS APPROVED EXTENSION POLICY.

The Utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the Utility and the applicant, in compliance with TCEQ rules and policies, and upon extension of the Utility's certified service area boundaries by the TCEQ.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

The Utility is not required to extend service to any applicant outside of its certificated service area and will only do so under terms and conditions mutually agreeable to the Utility and the applicant, in compliance with TCEQ rules and policies, and upon extension of the Utility's certificated service area boundaries by the TCEQ.

(Utility Name)

SECTION 3.0 -- EXTENSION POLICY (Continued)

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest collection line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the TCEQ's Executive Director, the residential service applicant shall not be required to pay for costs of main extensions greater than 6" in diameter for gravity wastewater lines.

Exceptions may be granted by the TCEQ Executive Director if

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

If an exception is granted, the Utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

D & K Development Corp.

Sewer Tariff

(Utility Name)

SECTION 3.0 -- EXTENSION POLICY (Continued)

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of sewer mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional treatment facilities. Contributions in aid of construction of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with Texas Commission on Environmental Quality minimum design criteria for facilities used in the production, collection, transmission, pumping, or treatment of sewage or Texas Commission on Environmental Quality minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the Texas Commission on Environmental Quality minimum design criteria for water production, treatment, pumping, storage and transmission.

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 30 TAC 291.86(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the Texas Commission on Environmental Quality minimum design criteria. As provided by 30 T.A.C. 291.85(e)(3), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

(Utility Name)

SECTION 3.0 -- EXTENSION POLICY (Continued)

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- Under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.
- for purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, TCEQ rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the TCEQ or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located.

Section 3.05 - Applying for Service

The Utility will provide a written service application form to the applicant for each request for service received by the Utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant. Service application forms will be available at the Utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

(Utility Name)

SECTION 3.0 -- EXTENSION POLICY (Continued)

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to Utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the Utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the Utility's nearest service main with adequate capacity to service the applicant's full potential service demand. Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the Utility. If no agreement on location can be made, the applicant may refer the matter to the TCEQ for resolution.

Section 3.06 - Qualified Service Applicant

A "qualified service applicant" is an applicant who has: (1) met all of the Utility's requirements for service contained in this tariff, TCEQ rules and/or TCEQ order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the Utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The Utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by TCEQ rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The TCEQ service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by TCEQ rules.

Section 3.07 - Developer Requirements

As a condition of service to a new subdivision, the Utility shall require a developer (as defined by TCEQ rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

APPENDIX A -- SAMPLE SERVICE AGREEMENT

From 30 TAC Chapter 290.47(b), Appendix B

SERVICE AGREEMENT

- I. **PURPOSE.** The NAME OF SEWER SYSTEM is responsible for protecting the drinking water supply from contamination or pollution which could result from improper private water distribution system construction or configuration. The purpose of this service agreement is to notify each customer of the restrictions which are in place to provide this protection. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the NAME OF SEWER SYSTEM will begin service. In addition, when service to an existing connection has been suspended or terminated, the sewer system will not re-establish service unless it has a signed copy of this agreement.

- II. **RESTRICTIONS.** The following unacceptable practices are prohibited by State regulations.
 - A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
 - B. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
 - C. No connection which allows water to be returned to the public drinking water supply is permitted.
 - D. No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
 - E. No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

III. SERVICE AGREEMENT. The following are the terms of the service agreement between the NAME OF SEWER SYSTEM (the Sewer System) and NAME OF CUSTOMER (the Customer).

- A. The Sewer System will maintain a copy of this agreement as long as the Customer and/or the premises are connected to the Sewer System.
- B. The Customer shall allow his property to be inspected for possible cross-connections and other potential contamination hazards. These inspections shall be conducted by the Sewer System or its designated agent prior to initiating new water service; when there is reason to believe that cross-connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities. The inspections shall be conducted during the Sewer System's normal business hours.
- C. The Sewer System shall notify the Customer in writing of any cross-connection or other potential contamination hazard which has been identified during the initial inspection or the periodic reinspection.
- D. The Customer shall immediately remove or adequately isolate any potential cross-connections or other potential contamination hazards on his premises.
- E. The Customer shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Sewer System. Copies of all testing and maintenance records shall be provided to the Sewer System.

IV. ENFORCEMENT. If the Customer fails to comply with the terms of the Service Agreement, the Sewer System shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Customer.

CUSTOMER'S SIGNATURE

DATE

EXHIBIT B

System Map

SCHEDULE 1.1

EXCLUDED ASSETS

1. Sewer Service Agreement, dated July 22, 2003, by and between D & K Development Corp. and SJ Mayfair South Development, LP, as amended.