



Control Number: 43105



Item Number: 3

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.

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**2ND AMENDMENT TO NORTH
PFLUGERVILLE WASTEWATER
PARTICIPATING AGREEMENT**

EXHIBIT B

Responses to Item 2C

3

**SECOND AMENDMENT TO
NORTH PFLUGERVILLE WASTEWATER PROJECT
PARTICIPATING AGREEMENT**

This Second Amendment to the North Pflugerville Wastewater Project Participating Agreement ("Second Amendment") is made and entered into by and among Kelly Lane Utility Company ("Kelly Lane"), Wilke Lane Utility Company ("Wilke Lane"), and Sarabecca, Ltd., a Texas limited partnership ("Sarabecca"), which are sometimes collectively referred to herein as "Utilities" and the City of Pflugerville, a Texas home-rule municipality ("City").

RECITALS

WHEREAS, the City, Kelly Lane and Wilke Lane entered into that certain North Pflugerville Wastewater Project Participating Agreement dated effective November 12, 2002 (the "Agreement"); and

WHEREAS, the City, Kelly Lane and Wilke Lane entered into that First Amendment to North Pflugerville Wastewater Project Participating Agreement on December 10, 2002, which amended the Agreement; and

WHEREAS, in April 2003, Kelly Lane and Wilke Lane transferred and assigned all of their rights, titles and interests in and to the Agreement as amended and the various assets of Wilke Lane and Kelly Lane to Sarabecca; and

WHEREAS, the City was made aware of this Assignment, and one purpose of this Second Amendment is to substitute Sarabecca for Kelly Lane and Wilke Lane as the Seller in the Agreement; and

WHEREAS, another purpose of this Second Amendment is to amend Paragraph 13.b. of the Agreement to delete the obligation of the City to issue Bonds (as defined in the Agreement) as payment of the purchase price but instead the Parties have agreed upon a cash selling price to be paid at Closing.

NOW THEREFORE, for and in consideration of the above and foregoing Recitals, and the mutual undertakings contained herein, the Parties agree as follows:

1. All of the Recitals stated above are true and correct.

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

2. Selling Price – Cash. Paragraph 13.b.(i) through (vi) of the Agreement and as amended by the First Amendment are hereby deleted from the Agreement as amended and the following Paragraph 13.b. is substituted in its place:

13.b. Terms of Purchase – Cash. The terms of the purchase by the City, pursuant to Paragraph 13.a. above, are as follows. The purchase price is \$12,475,000.00 to be paid by the City to Sarabecca, the Seller, in cash, cashier's check or readily available funds by wire to the bank account of Sarabecca.

3. Assignment. The City acknowledges that Kelly Lane and Wilke Lane previously notified the City pursuant to the Agreement as amended that each had transferred and assigned all of its rights, titles and interests in and to all of its assets and this Agreement as amended to Sarabecca effective April 9, 2003. Sarabecca, as the transferee, is the new Seller and joins in this Second Amendment. By signing same, Sarabecca represents to all parties that it has agreed to assume all of the obligations of Kelly Lane and Wilke Lane under the terms of the Agreement and all Amendments, and further, is entitled to all of the benefits of, and related to, the Agreement and the First Amendment.

4. Paragraph 13.a. Sarabecca acknowledges receipt of Notice from the City in January, 2005, that the City has exercised in a timely way its option to purchase 100% of the assets of the Utilities which are now owned by Sarabecca, Seller herein, pursuant to Paragraph 13.a. of the Agreement.

5. Closing. The Parties to this Second Amendment specifically agree that the closing of the Agreement and all Amendments thereto shall occur at the offices of Commonwealth Land Title Company of Austin, 103 12th Street, Suite 100, Pflugerville, Texas, at 11:00 a.m., on January 3, 2006.

6. Effective Amendment. Except as specifically provided in this Second Amendment, the terms of the Agreement and the First Amendment continue to govern the rights and obligations of the Parties and all the terms of the Agreement as amended by the First Amendment and this Second Amendment remain in full force and effect. If there is any conflict or inconsistencies between the Agreement, the First Amendment and this Second Amendment, this Second Amendment will control and modify both the Agreement and the First Amendment.

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

Executed the 11 day of ^{OCTOBER}~~September~~, 2005.

CITY OF PFLUGERVILLE

By: David Buesing
Name: DAVID BUESING
Title: City Manager

Attest:

By: Karen Thompson
Name: Karen Thompson
Title: City Secretary

KELLY LANE UTILITY COMPANY

By: Kenneth W. Durr
Name: Kenneth W. Durr
Title: President

WILKE LANE UTILITY COMPANY

By: Kenneth W. Durr
Name: Kenneth W. Durr
Title: President

SARABECCA, LTD., a Texas limited partnership

By: Sarabecca GP, LLC, General Partner

By: Kenneth W. Durr
Name: Kenneth W. Durr
Title: Manager

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

AGREEMENT CONCERNING WASTEWATER SERVICE

This Agreement Concerning Wastewater Service (the "Agreement") is entered into among the City of Pflugerville, a home-rule city located in Travis County, Texas (the "City") and RMD Construction, Inc. d/b/a 973 Wastewater Company or its successors or assigns as permitted herein ("973 Wastewater Company"). Collectively, the City and 973 Wastewater Company are hereafter referred to sometimes as the "Parties;"

Whereas, the City and Wilson Family Communities, Inc., R.M.D. Holdings, L.P., a Texas Limited Partnership and its affiliate, New Sweden MPC, L.P. a Texas Limited Partnership or their successors or assigns as permitted herein (collectively, the "Developers") are entering into that certain "New Sweden Development Agreement" (the "Development Agreement") contemporaneously with the execution of this Agreement;

Whereas, the Development Agreement contemplates that the Developers will create up to three (3) municipal utility districts (to be known as New Sweden MUDs 1 ("MUD 1"), New Sweden MUD 2 ("MUD 2") and New Sweden MUD 3 ("MUD 3"), respectively) (said area shown on Exhibit A hereto and referred to hereafter as the "Tract"), with the parts of the Tract currently anticipated to be included within or served by a district also being shown on Exhibit A hereto and referred to as the "MUD 1 Tract," the "MUD 2 Tract" and the "MUD 3 Tract," respectively;

Whereas, Section 1.16 of the Development Agreement contemplates that the Parties will enter into this Agreement to govern certain aspects of the provision of wastewater service to the "Tract" (as defined in the Development Agreement); and

Whereas, 973 Wastewater Company intends to initially provide wholesale wastewater service for the MUD 1 Tract and the MUD 2 Tract, and is constructing wastewater transmission facilities with capacity to serve the entire Tract and other areas outside of the Tract ("Other Areas"); **Now, therefore,**

It is Hereby Agreed Between the Parties as Follows.

Sec. 1 Capitalized Terms. If a word or term is capitalized, but not defined, in this Agreement it shall have the meaning provided in the Development Agreement, which is hereby incorporated herein by reference for such purpose, unless this Agreement clearly provides for a different meaning for such capitalized word or term.

Sec. 2 Wastewater Service.

A. The Treatment Plant. 973 Wastewater Company has obtained a wastewater treatment and disposal TPDES Permit No. WQ0014642001 (the "Permit") for, and to construct, own and operate (i) a 0.95 million gallons per day ("MGD") wastewater treatment and disposal facility and associated rights of access to the site for the plant (the "Treatment Plant") to provide wholesale wastewater treatment and disposal service to the MUD 1 Tract and the MUD 2 Tract. The Treatment Plant shall include the assets listed on Exhibit B to this Agreement. The total capacity of the 0.95 MGD Treatment Plant

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

and Permit is reserved for the exclusive use of the MUD 1 Tract and the MUD 2 Tract for the term of the wholesale agreements between 973 Wastewater Company and the Developers of the MUD 1 Tract and the MUD 2 Tract as discussed later herein. The Treatment Plant will be owned and operated by the 973 Wastewater Company. 973 Wastewater Company has obtained the initial Permit from the Texas Commission on Environmental Quality ("TCEQ") to enable it to construct the Treatment Plant to provide wholesale wastewater service for the Tract in an amount up to 0.95 MGD, in three phases: the first phase for a capacity of 150,000 gallons per day ("Phase I"); the second phase for a capacity of 475,000 gallons per day ("Phase II"); and the third phase for a capacity of 950,000 gallons per day ("Phase III"). Phases I, II and III of the Treatment Plant are reserved to serve solely the MUD 1 Tract and the MUD 2 Tract. The MUD 3 Tract shall have no capacity reserved in Phases I, II or III of the Treatment Plant.

B. The Transmission Facilities. 973 Wastewater Company intends to cause to be constructed wastewater transmission facilities and appurtenances thereto leading to the Treatment Plant (the "Transmission Facilities") to provide wastewater transportation service to all or portions of the Tract and adjacent areas to be served by the City. The Transmission Facilities will be owned and operated by the Developers, MUD 1 or MUD 2. The Transmission Facilities are intended to serve the entire Tract and the Other Areas. The total amount of capacity in the Transmission Facilities, and the amount of such capacity in the Transmission Facilities reserved for the exclusive use of the MUD 1 Tract, the MUD 2 Tract and the MUD 3 Tract is shown on Exhibit C hereto. The capacity reserved in the Transmission Facilities shall be reserved for the term of the wholesale agreements between 973 Wastewater Company and the Developers of the MUD 1 Tract and the MUD 2 Tract or the City and MUD 3 for the MUD 3 Tract as discussed later herein; provided, however, if MUD 3 or the Developers of the MUD 3 Tract do not begin to utilize the capacity reserved for the MUD 3 Tract in the Transmission Facilities within ten (10) years after execution of this Agreement, then the capacity reserved for the MUD 3 Tract in the Transmission Facilities shall no longer be reserved for the exclusive use of the MUD 3 Tract.

C. Excess Transmission Capacity Over and above Reserved Capacity; Project. The portions of the capacity of the Treatment Plant, the Permit and the Transmission Facilities reserved for the exclusive use of the MUD 1 Tract, the MUD 2 Tract and the MUD 3 Tract as described in subsections A and B above shall be referred to as the "Reserved Capacity." The excess capacity in the Transmission Facilities over and above the Reserved Capacity therein is hereafter referred to as the "Excess Transmission Capacity." The Permit, the Treatment Plant and the Excess Transmission Capacity are hereafter referred to, collectively, as the "Project." The Project is generally described on Exhibit D hereto. The Permit and the Treatment Plant shall be as described in Section 2. A of this Agreement. The Excess Transmission Capacity shall mean the amounts of capacity in the various parts of the Transmission Facilities described as Excess Transmission Capacity in Exhibit C hereto.

D. Wastewater Service to the Tract. The City hereby consents to 973 Wastewater Company providing wholesale wastewater treatment and disposal service to all or any portions of the Tract, subject to the other provisions of this Agreement. Retail

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

wastewater service to all or any part of the Tract acquired by the Developers may be provided by MUDs 1, 2 or 3.

Sec. 3 Construction and Expansion of Project. The City hereby consents to 973 Wastewater Company constructing, or causing the construction of, Phases I, II and III of the Treatment Plant and the Transmission Facilities. If the Option to acquire the Project granted to the City in Section 4 of this Agreement expires or is terminated, 973 Wastewater Company may construct expansions of the Treatment Plant beyond Phase III pursuant to the provisions of this Agreement to serve the MUD 3 Tract and the Other Areas. The Project (to be constructed, or caused to be constructed, by 973 Wastewater Company) and the wastewater collection facilities (to be constructed by the Developers) within, or serving, the Tract will be built to the City of Pflugerville Engineering Design Guidelines and Construction Standards Manual and the City's Site Development Code Standards as currently set forth in Chapter 155 of the City Code (collectively referred to as "City Standards") except that 973 Wastewater Company and the Developers shall not be required to backfill utility trenches with compacted base materials, but will backfill utility trenches as provided for by the City's 1993 Construction Standards Manual Specification Item 0533. The City is hereby granted access to, and shall have the right to inspect, all such construction for all purposes, including but not limited to compliance with City Standards. 973 Wastewater Company agrees, however, to allow the City to expand the Treatment Plant on the current site of the Treatment Plant (the "Site") and to seek amendments to the Permit to enable the City to construct expansions of the Treatment Plant beyond Phase III to serve the MUD 3 Tract and the Other Areas provided the City exercises the option to acquire the Project as provided by this Agreement. 973 Wastewater Company will cooperate with City to enable City (i) to apply for and obtain such permit amendments and (ii) provided the City exercises the option to acquire the Project, to construct and operate expansions of the Treatment Plant to serve the MUD 3 Tract and the Other Areas as provided herein.

Sec. 4 Option to Purchase Project. The City shall have an option to purchase the Project (the "Option") under the following terms and conditions:

A. Description of Option. The Option shall commence upon execution of this Agreement and continue thereafter for a period ending at the earlier of (i) one (1) year after the City obtains an order from the Texas Commission on Environmental Quality (the "TCEQ") approving an amendment to the Permit, or a separate permit as provided below, to expand the Treatment Plant beyond 0.95 MGD on the Site as discussed below or (ii) the date that is sixty (60) days after the TCEQ has given written notice to the City that the City's application for such permit, or amendment to the Permit, has been denied (the "Option Period"). During the Option Period, (i) 973 Wastewater Company agrees not to offer for sale, or enter into any agreement to sell, the Project to any Third Party and (ii) the City agrees, at its sole expense, to use "diligent efforts" to enter into agreements with other potential wastewater customers within the MUD 3 Tract and the Other Areas and to obtain, in the name of both the City and 973 Wastewater Company, a permit, or an amendment to the Permit of 973 Wastewater Company, in the amount of an additional 2.05 MGD and to construct, or cause to be constructed, a wastewater plant expansion on the Site to serve such customers. When used in the preceding sentence, the term "diligent

efforts" shall mean that the City (a) must file an application for a permit, or amendment to the Permit, for an additional 2.05 MGD by the ninetieth (90th) day after execution of this Agreement by the Parties; (b) the application shall be determined to be administratively complete by the TCEQ by the one hundred and eightieth (180th) day after execution of this Agreement by the Parties; and (c) the application shall be granted by the TCEQ by five hundred and fortieth (540th) day after execution of this Agreement by the Parties. These deadlines may be changed by agreement of the parties in writing. If the City does not exercise the Option during the Option Period, and subsequently purchase the Project from 973 Wastewater Company, or if the City fails to meet one of the deadlines for using "diligent efforts" to obtain the Permit, or amendment to the Permit, as set forth in the preceding sentence, then 973 Wastewater Company shall have the right to notify the City, in writing, that the Option has expired and the City shall assign to 973 Wastewater Company the City's interest in any permit, or amendment of the Permit, or application therefor, if requested by 973 Wastewater Company, for expansion of the Treatment Plant on the Site free and clear of any liens, claims or encumbrances and pursuant to such documents as may be reasonably agreed to by 973 Wastewater Company; provided, however, if these deadlines are not met due to circumstances beyond the reasonable control of the City and for so long as the City continues to use diligent efforts to accomplish such matters, 973 Wastewater Company shall not terminate the Option for failure to meet the deadlines.

B. Exercise of Option. If the City desires to exercise the Option during the Option Period, then the City shall first provide written notice to 973 Wastewater Company, with a copy to MUDs 1, 2 and 3; provided, however, the City shall be deemed to have delivered such written notice to 973 Wastewater Company to exercise the Option if (i) the City obtains a permit, or an amendment to the Permit, for expansion of the Treatment Plant on the Site and (ii) the City enters into the draft wholesale wastewater agreement with MUD 3 as discussed later herein or an agreement with another customer in areas of the Tract outside of the MUDs 1, 2 and 3 Tracts or in the Other Areas for the provision of wastewater service to such other customer from the Treatment Plant expansion permitted to the City on the Site. If the City provides, or is deemed to have provided, such notice to 973 Wastewater Company, then (i) the City shall be obligated to purchase, and 973 Wastewater Company to sell, the Project under the other terms of this Section 5 and (ii) 973 Wastewater Company agrees not to offer for sale, or enter into any agreement to sell, the Project to any Third Party so long as the City is not in material breach of this Section 4.

The purchase price for the City to purchase the Project shall be the costs of the Treatment Plant, the Site and the Permit (not including any costs of the Transmission Facilities) incurred by or on behalf of 973 Wastewater Company, including, without limitation, all costs of design, engineering, materials, labor, construction and inspection arising in connection with the Treatment Plant; all reasonable payments arising under any contracts entered into for the construction of the Treatment Plant; all costs incurred in connection with obtaining governmental approvals for the Treatment Plant, including the Permit; the 10 acre Site (at \$180,000.00) and all out-of-pocket expenses incurred in connection with the construction of the Treatment Plant (collectively, the "Project Costs"); together with interest on such Project Costs ("Interest") from the time they are

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JAN 27 2014
UTILITIES & PROJECTS
SECTION

incurred by 973 Wastewater Company at a rate which is one and one-half percent (1.5%) above the prime rate of interest (for example, if the prime rate is 5.5% then the interest rate for this Agreement is 7.0%) payable quoted in the Wall Street Journal or a similar financial periodical of national circulation as the per annum base rate on corporate loans at large U.S. Money Center Commercial Banks on the date of "Closing," as hereafter defined. The Project Costs as adjusted by the Interest are hereafter referred to as the "Purchase Price".

The Project Costs (i. e., exclusive of the Interest) of the Permit and the Site are listed on Exhibit E hereto. The Parties understand that, except as to Permit and Site costs, the remainder of the Project Costs (i. e., exclusive of the Interest) of the Phases of the Treatment Plant are not known yet. The Parties have therefore described on Exhibit E hereto the Project Costs for all three Phases of the Treatment Plant, the unpaid portion of which are still estimated and therefore unknown at the time of execution of this Agreement. The Parties agree to the following process for determination of the Project Cost (i. e., exclusive of the Interest portion of the Purchase Price) for Phases I, II and III of the Treatment Plant. Within ten (10) days after execution of this Agreement by the City and 973 Wastewater Company, 973 Wastewater Company shall provide to the City copies of all invoices for Project Costs paid for by 973 Wastewater Company to date and shown in Exhibit E. Within ten (10) business days from receipt of copies of invoices related to the Project Costs shown in Exhibit E, the City must reject such invoices in writing to the extent the City finds an invoice objectionable. If the City does not reject a timely submitted invoice within ten (10) business days, the cost evidenced by the invoice shall be deemed accepted by the City as part of the Project Cost for that Phase. For all other invoices, 973 Wastewater Company shall provide to the City copies of invoices that will constitute part of the Project Cost of any Phase of the Treatment Plant within ten (10) days after receipt by 973 Wastewater Company for the City's review. The City must reject such invoice in writing within ten (10) business days after receipt. If the City does not reject a timely submitted invoice within ten (10) business days, the cost evidenced by the invoice shall be deemed accepted by the City as part of the Project Cost for that Phase. Within thirty (30) days after completion of construction of any Phase of the Treatment Plant listed on Exhibit E hereto, and thirty (30) days prior to the time of Closing of the purchase of the Phase of the Treatment Plant, 973 Wastewater Company shall present an invoice to the City specifying the portion of the Purchase Price consisting of the total Project Costs for that Phase of the Treatment Plant, which total Project Costs shall be the sum of all invoices presented to the City by 973 Wastewater Company for that Phase. If

- (i) the City has not objected to any of the invoices previously presented by 973 Wastewater Company for that Phase, or
- (ii) the total Project Costs for that Phase as presented by 973 Wastewater Company in the final invoice that specifies the total Project Costs for that Phase, are less than or equal to one hundred and five percent (105%) of the product of the original estimated cost of the Phase for which Closing is occurring as shown on Exhibit E hereto times a fraction, the denominator of

which shall be the Consumer Price Index-All Urban Consumers, 1982-1984 = 100) published by the Bureau of Labor Statistics of the U. S. Department of Labor, South Region (or if such index shall cease to be published, then a regularly published index derived by using the same or substantially the same data and methodologies) for the initial month of this Agreement and the numerator of which shall be the same index for the month in which the invoice for the Phase is calculated,

then the final total invoice reflecting the portion of the Purchase Price consisting of the Project Costs presented by 973 Wastewater Company for that Phase of the Treatment Plant shall represent the agreed Project Costs for that Phase. In no event, however, shall the City be obligated to pay more than the actual costs incurred, plus interest as otherwise agreed to in this Agreement, for any Phase or all Phases of the Project.

If

- (i) the City has objected to any individual invoice for a Phase of the Treatment Plant, and
- (ii) the total Project Costs for that Phase as presented by 973 Wastewater Company in the final invoice is more than one hundred and five percent (105%) of the product of the original estimated cost of the Phase on Exhibit E hereto, times a fraction, the denominator of which shall be the Consumer Price Index-All Urban Consumers, 1982-1984 = 100) published by the Bureau of Labor Statistics of the U. S. Department of Labor, South Region (or if such index shall cease to be published, then a regularly published index derived by using the same or substantially the same data and methodologies) for the initial month of this Agreement and the numerator of which shall be the same index for the month in which the invoice for the Phase is calculated,

then the Parties agree upon and appoint a third party arbitrator to determine the amount of Project Costs for that Phase of the Treatment Plant to be included in the Purchase Price, which amount may not be more than the actual costs incurred, plus interest as otherwise agreed to in this Agreement, for any Phase or all Phases of the Project, and which amount must at least be equal to one hundred and five percent (105%) of the product of the original estimated cost of the Phase on Exhibit E hereto times a fraction, the denominator of which shall be the Consumer Price Index-All Urban Consumers, 1982-1984 = 100) published by the Bureau of Labor Statistics of the U. S. Department of Labor, South Region (or if such index shall cease to be published, then a regularly published index derived by using the same or substantially the same data and methodologies) for the initial month of this Agreement and the numerator of which shall be the same index for the month in which the invoice for the Phase is calculated.

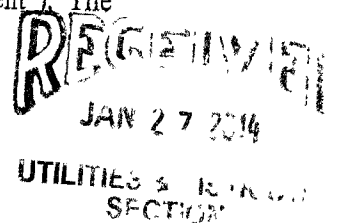
If the parties cannot agree on an arbitrator, then they shall allow one to be appointed by the American Arbitration Association. The parties shall have a period of twenty (20) business days after appointment of the arbitrator to present any evidence, in writing to the arbitrator with copy to the other party. The arbitrator shall determine the amount of Project Costs for the Phase of the Treatment Plant to be included in the Purchase Price for that Phase, subject to the limitations of this Agreement, within forty (40) days after being appointed, unless both Parties agree to extend that period. The arbitrator shall approve disputed costs if he finds that they were reasonable in amount and reasonably needed for construction of the Phase, reasonably needed to meet the terms of the Permit or needed to implement the terms of any settlement agreements between 973 Wastewater Company and any protesters to the Permit for the Treatment Plant in existence at the time of execution of this Agreement by the Parties and which are within the categories of costs shown in Exhibit E as either known or estimated costs. The arbitrator's decision shall be binding on the Parties so long as it is within the limits of this Agreement. The expenses of the arbitrator shall be split equally by the Parties.

C. Closing(s). If the City exercises the Option by notifying 973 Wastewater Company of the City's intent to purchase the Project, the sale of the Project shall take place in up to three (3) separate closings (the "Closing(s)"), one for each completed Phase of the Project, with each such Closing to be on or before the later to occur of (a) sixty (60) days after completion of construction and commencement of operation of each Phase or (b) 10 months after the previous phase reached 50% capacity (the "Closing Date(s)"). On the Closing Date(s) for each Phase, the full Purchase for that Phase being purchased shall be paid by the City to 973 Wastewater Company in cash, subject to the provisions of Section 4, Paragraph B, above.

Conveyance of the Project shall be free and clear of any liens, claims or encumbrances arising either in tort, contract, or otherwise from any and all actions or inactions of 973 Wastewater Company or any other entity involved in the construction, planning, design, engineering, operations or maintenance of the Project. The transferor of the Project shall notify City of any liens, claims, or encumbrances of which transferor is aware. The Project shall be transferred as is and without any warranties or representations as to their condition, except for any construction contractor's warranties then in effect; however, the transferor shall notify the City of any deficiencies in the condition of the Project at the time of conveyance, if and to the extent the transferor is aware of such deficiencies.

D. Escrow Account for Phases II and III. For Phases II and III of the Project, the City shall deposit an Escrow Amount to secure payment of the Purchase Price for such Phases in accordance with this subsection D as follows:

(1) At the time of, and as a condition to, Closing for Phase I of the Project, the City shall deliver a certified cashiers check (or other form of payment approved by 973 Wastewater Company in writing) in the amount of \$250,000 to be placed in escrow (the "Escrow Account") with Independence Title Company of Austin, Texas (the "Escrow Agent"). The



amount in the Escrow Account, including any interest earnings thereon, if any, is hereafter referred to as the "Escrow Amount."

(2) The Escrow Account shall be held by the Escrow Agent for the sole purpose of applying the Escrow Amount, plus any interest earned thereon, if any, towards the City's payment of the Purchase Price on the future Closing Date for Phase II of the Project; provided further, however, on the date of Closing for, and as a condition to, the City's purchase of Phase II of the Project, the City shall deposit an amount of \$250,000 into the Escrow Account, with such future Escrow Amount, including any interest earnings thereon, if any, in the Escrow Account at the time of any future Closing for Phase III to be credited to the Purchase Price otherwise owed by the City at the Closing for Phase III.

E. Remedies for Failure to Close. After exercising the Option described in Subsection 4. A., above, and after Closing on Phase I of the Project, if the City fails to close the purchase of Phase II or Phase III of the Project for any reason other than 973 Wastewater Company's failure to comply with its obligations to consummate the Closing of the sale of Phase II or Phase III thereof, to the City at a Closing under this Agreement, then in addition to the transfer of the City's interest in any permit, or amendment to the Permit, obtained by the City for expansion of the Treatment Plant on the Site, the Escrow Agent shall immediately pay the Escrow Amount to 973 Wastewater Company as full compensation of any and all damages suffered by 973 Wastewater Company for the City's failure to purchase the Project, or any Phase thereof, on such Closing Date and the Parties shall have no further rights or obligations with respect to the City's Option to purchase the Project and this Section 4 shall expire; provided, however, 973 Wastewater Company may alternatively seek specific performance or mandamus against the City or its officials to require the City to consummate the purchase of such future Phases and the provisions of this Section 4 shall continue for such purposes.

F. Conveyance at Closing. At the time the City purchases the Project, or any Phase thereof, on a Closing Date, then the Parties agree as follows:

(1) 973 Wastewater Company shall convey to the City the Project, or relevant Phase thereof, including the Treatment Plant (or Phase thereof), the Excess Transmission Capacity (or so much thereof as exists at the time of Closing), the Site (subject to 973 Wastewater Company's right to use the Site as hereinafter provided in relation to future Phases of the Treatment Plant) and an undivided interest in the portion of the Permit relevant to the Phase being purchased at each Closing, free and clear of any other liens, claims or encumbrances not otherwise agreed to in writing by the City (it being specifically understood that the City may consent to the terms of any operating contract for the Project between 973 Wastewater Company and ECO Resources, Inc., or its affiliates) and 973 Wastewater Company shall assign 973 Wastewater Company Services Contract dated June 9, 2006 to the City upon request by the City; provided, however, any such conveyance shall also be subject to the following:

(i) The Reserved Capacity of the Treatment Plant, or any Phase thereof purchased at a Closing, as specified in Exhibit C hereto shall in all events be reserved for the provision of wholesale wastewater treatment and disposal services for the use by the Developers or MUDs 1 and 2 pursuant to the rights of the Developers (or their successors) and such districts under those two certain agreements entitled "Amended and Restated Wholesale Wastewater Service Agreement" and "Wholesale Wastewater Service Agreement" between one or more of the Developers (for the benefit of and/or as assigned to MUD 1 and/or MUD 2, respectively) and 973 Wastewater Company dated July 28, 2006 (the "Wholesale Agreements"), and the only charges for such Reserved Capacity and service shall be the charges specified in the Wholesale Agreements;

(ii) The Reserved Capacity in the Transmission Facilities as specified in Exhibit C hereto as being reserved for MUDs 1, 2 and 3 shall be in all events reserved, at no cost, except for such MUDs' pro rata shares (based on relative reserved capacities) of any costs incurred by MUD 1 and/or MUD 2 to repair and maintain the Transmission Facilities, for the provision of wholesale wastewater transmission services for the use by the Developers or MUDs 1 and 2 for the MUD 1 Tract and the MUD 2 Tract pursuant to the rights of the Developers and MUDs 1 and 2 under the Wholesale Agreements and for use by the Developers or MUD 3 for the MUD 3 Tract under the terms of that certain draft Wholesale Wastewater Services Agreement attached as Exhibit F hereto (which the City hereby approves and agrees to enter into with MUD 3 promptly after creation of MUD 3), provided that the Developers or MUD 3 begin to use such portion of the Reserved Capacity for the MUD 3 Tract within ten (10) years after execution of this Agreement;

(iii) The Excess Capacity of the Transmission Facilities as described on Exhibit C shall be reserved for the exclusive use of the City at no cost to the City except that the City agrees to pay its pro rata share (based on relative reserved capacities) of any costs incurred by MUD 1 and/or MUD 2 to repair and maintain the Transmission Facilities and provided further the Parties shall cooperate to allow the City access to the Transmission Facilities for the City to construct its own lift station, if necessary, to utilize the City's Excess Capacity in the Transmission Facilities since the Excess Capacity transferred to the City does not include any capacity in the lift station that is part of the Transmission Facilities;

(iv) Any Reserved Capacity in the Transmission Facilities not utilized by MUDs 1, 2 or 3 at full development of those MUDs shall be transferred to the City from time to time as appropriate at such time as any of such Districts is fully developed; and

(v) If at the time of Closing, not all of the Excess Capacity of the Transmission Facilities is conveyed to the City because some of such Excess Capacity does not exist on the Closing Date, then such un-conveyed portion of the Excess Capacity of the Transmission Facilities shall be conveyed to the City thereafter within thirty (30) days after completion of construction of such un-conveyed Excess Capacity of the Transmission Facilities.

(2) 973 Wastewater Company shall assign to the City from and after the first Closing, and the City shall accept, all of the 973 Wastewater Company's rights and obligations under the Wholesale Agreements except for the rights and obligations described in subsections (3) and (4) below (the "Reserved Rights").

(3) 973 Wastewater Company shall retain the rights under the Wholesale Agreements to receive payments by the Developers and MUDs 1 and 2 of the LUE Fees under Section 3.02 of the Wholesale Agreements along with the rights to all Irrevocable Letters of Credit posted with 973 Wastewater Company under Section 3.03 of the Wholesale Agreements.

(4) 973 Wastewater Company shall retain right, and the obligation, under the Wholesale Agreements with the Developers and MUDs 1 and 2 to construct any remaining Phases II and III of the Project, subject to the City's right and obligation to purchase Phases II and III of the Project pursuant to the Option granted to the City herein.

(5) The Parties will cooperate to enable the City to provide wholesale wastewater service to MUDs 1, 2 and 3 as provided herein, and to provide wastewater services to the Other Areas.

In the event a Closing is prior to the date of completion of construction and commencement of operation of Phase III of the Project and 973 Wastewater Company is therefore, entitled and obligated by subsection (4) above to thereafter continue to construct any of any remaining Phases II and/or Phase III of the Project, the City shall purchase from 973 Wastewater Company such Phases II and/or Phase III on or before the later to occur of: (a) 60 days after completion of construction and commencement of operation of same under the terms and conditions as previously provided herein or (b) 10 months after the previous phase reaches 50% capacity.

G. Conveyance of Transmission Facilities. Notwithstanding anything herein to the contrary, if the City desires, at any time after a Closing and after MUD 1 or MUD 2 has obtained legal title to the Transmission Facilities, and provided MUD 1 and MUD 2 determine that such will not impair the ability of MUDs 1, 2 or 3 to reimburse the costs incurred by the Developers in such MUDs 1, 2 and 3 for the Transmission Facilities or the capacity therein, the City may request that the District or Districts owning title to the Transmission Facilities convey the same to the City at no cost and the District or Districts shall so convey title to the City and the City shall thereafter own and operate the Transmission Facilities at the City's expense and further provided that the Wholesale

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UTILITIES & DISTRICTS
SECTION

Wastewater Service Agreements between MUD 1 and MUD 2 are amended to enable the City to charge MUD 1 and MUD 2 for their respective pro rata shares (based on relative shares of reserved capacity) of the cost of maintenance and operation of the transferred Transmission Facilities. Conveyance of the Transmission Facilities shall be free and clear of any liens, claims or encumbrances arising either in tort, contract, or otherwise from any and all actions or inactions of 973 Wastewater Company or any other entity involved in the construction, planning, design, engineering, operations or maintenance of the Transmission Facilities. The transferor of the Transmission Facilities shall notify City of any liens, claims, or encumbrances of which transferor is aware. The Transmission Facilities shall be transferred as is and without any warranties or representations as to their condition, except for any construction contractor's warranties then in effect; however, the transferor shall notify the City of any deficiencies in the condition of the Transmission Facilities at the time of conveyance if and to the extent the transferor is aware of such deficiencies.

H. Cooperation with City Expansions of Treatment Plant. 973 Wastewater Company agrees that, after the initial Closing, as 973 Wastewater Company constructs Phases II or III of the Project, it will cooperate with the City to attempt to accommodate any City-initiated expansions of the Treatment Plant that the City desires. Any such matters shall be subject to the execution of an amendment to this Agreement or a separate agreement specifying such matters.

Section 5 973 Wastewater Company's Rights to Use Site After Closing. At the time of any Closing of the City's purchase of Phases I and II of the Project, the conveyance documents shall specifically reserve to 973 Wastewater Company from the conveyance of the Site and the Permit, the right for 973 Wastewater Company to continue to use the Site and the Permit for the purpose of performing the obligations of 973 Wastewater Company under this Agreement and the Wholesale Agreements to construct Phases II and III of the Treatment Plant. Such documents shall further provide that the City shall be solely responsible for operation of the Treatment Plant and for compliance with the terms of the Permit and that 973 Wastewater Company shall have absolutely no responsibility for operation of the Treatment Plant or for compliance with the terms of the Permit following the Closing date(s).

Sec. 6 Right of First Refusal to Purchase Project, or Relevant Portions Thereof. In the event 973 Wastewater Company receives a bona fide acceptable offer to purchase the Project from any third party ("Third Party"), 973 Wastewater Company shall offer the Project, or relevant portion thereof, to the City upon the same price, terms and conditions as contained in the bona fide offer. 973 Wastewater Company shall give the City written notice of receipt of such bona fide acceptable offer, which notice shall contain the price, terms and conditions of such offer, together with a copy of such offer. The City shall have sixty (60) days from receipt of such notice from 973 Wastewater Company to give 973 Wastewater Company notice of the City's decision to exercise its right to purchase the Project, or relevant portion thereof, on the same price, terms and conditions set forth in said offer. If the City does not so notify 973 Wastewater Company of the City's decision to exercise its right to purchase the Project, or relevant portion thereof, within such sixty (60) day period, 973 Wastewater Company shall be entitled to

sell the Project, or relevant portion thereof, to the Third Party at a price of not more than ten percent (10%) less than the price, and on terms and conditions not materially better for the Third Party than the terms and conditions set forth in 973 Wastewater Company's notice to the City. If 973 Wastewater Company is unable to close the sale to said Third Party at such price and on such terms and conditions, the City's rights, and 973 Wastewater Company's obligations, under this Article shall not expire. If the City notifies 973 Wastewater Company of the City's decision to exercise its right to purchase the Project, or relevant portion thereof, as provided herein, the City and 973 Wastewater Company must enter into a completed and signed contract within ninety (90) days after the date of 973 Wastewater Company's original notice to the City, or the City's right to purchase the Project, or relevant portion thereof, on the price, terms and conditions in the written notice will terminate. The provisions of this Article shall not apply to the sale or transfer of the Project, or relevant portion thereof, to an affiliate of 973 Wastewater Company which becomes a successor in interest to 973 Wastewater Company in regard to this Agreement.

Section 7 Acquisition of Land in Other Area by Concordia University. If Concordia University acquires a portion of the Other Area, the Parties agree to use their best efforts to enter into appropriate amendments of this Agreement to enable either Party to provide wastewater service to the Concordia tract.

Section 8 Assignment. This Agreement may be assigned by 973 Wastewater Company to an affiliate or another entity with the prior written consent of the City, such consent not to be unreasonably withheld, conditioned or delayed. If the assignment requires the assignee to assume, in writing, all obligations of 973 Wastewater Company under this Agreement, 973 Wastewater Company shall be fully released and discharged from any and all obligations under this Agreement so assigned.

Section 9 Exhibits. The following Exhibits attached to this Agreement are hereby incorporated herein by reference:

Exhibit A Description of the Tract.

Exhibit B Treatment Plant Assets.

Exhibit C Reserved and Excess Capacity.

Exhibit D The Project.

Exhibit E Project Costs

Exhibit F Wholesale Agreement Between the City and MUD 3.

Executed in multiple copies, each of which constitutes an original, on this 14th day of March, 2007.

Address:
P.O. Box 589
Pflugerville, Texas 78691
(512) 251-3076

Address:
Attn: Mr. Rhett Dawson
1717 West Sixth St., Ste. 260
Austin, Texas 78703
(512) 482-8806 (telephone)
(512) 482-8807 (fax)

CITY:
CITY OF PFLUGERVILLE, TEXAS

By: David Buesing
David Buesing, City Manager

973 WASTEWATER COMPANY:

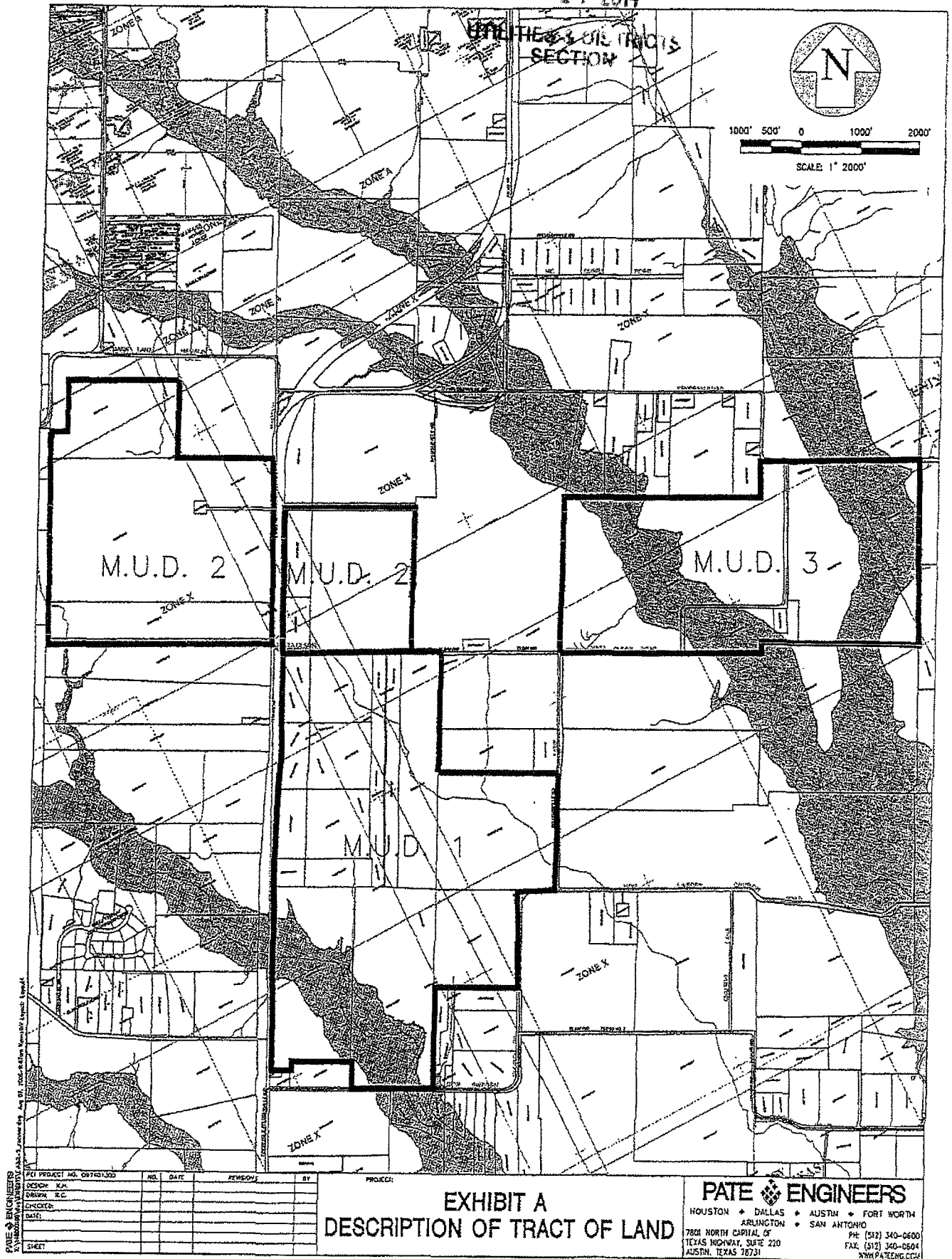
RMD CONSTURCTION, INC.
d/b/a 973 WASTEWATER COMPANY

By: Rhett Dawson
Rhett Dawson, President

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SECTION

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PROJECT NO.	097431300	NO.	DATE	PERSON	BY
DESIGN	RAK				
DRAWN	EC				
CHECKED					
DATE					
SHEET					

EXHIBIT A DESCRIPTION OF TRACT OF LAND

PATE ENGINEERS
 HOUSTON • DALLAS • AUSTIN • FORT WORTH
 ARLINGTON • SAN ANTONIO
 7801 NORTH CAPITAL OF
 TEXAS HIGHWAY, SUITE 220
 AUSTIN, TEXAS 78731
 PH: (512) 340-6600
 FAX: (512) 340-6604
 WWW.PATEENG.COM

Exhibit B
Treatment Plant Assets

Lift Station
Bar Screens
Aeration Basin
Aerobic Digester Basins
Clarifier
Chlorine Contact Basin
Disk Filter Unit
Access Drive
Fence

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SECTION

EXHIBIT C RESERVED AND EXCESS CAPACITY

973 Wastewater Company Transmission System Capacity Table

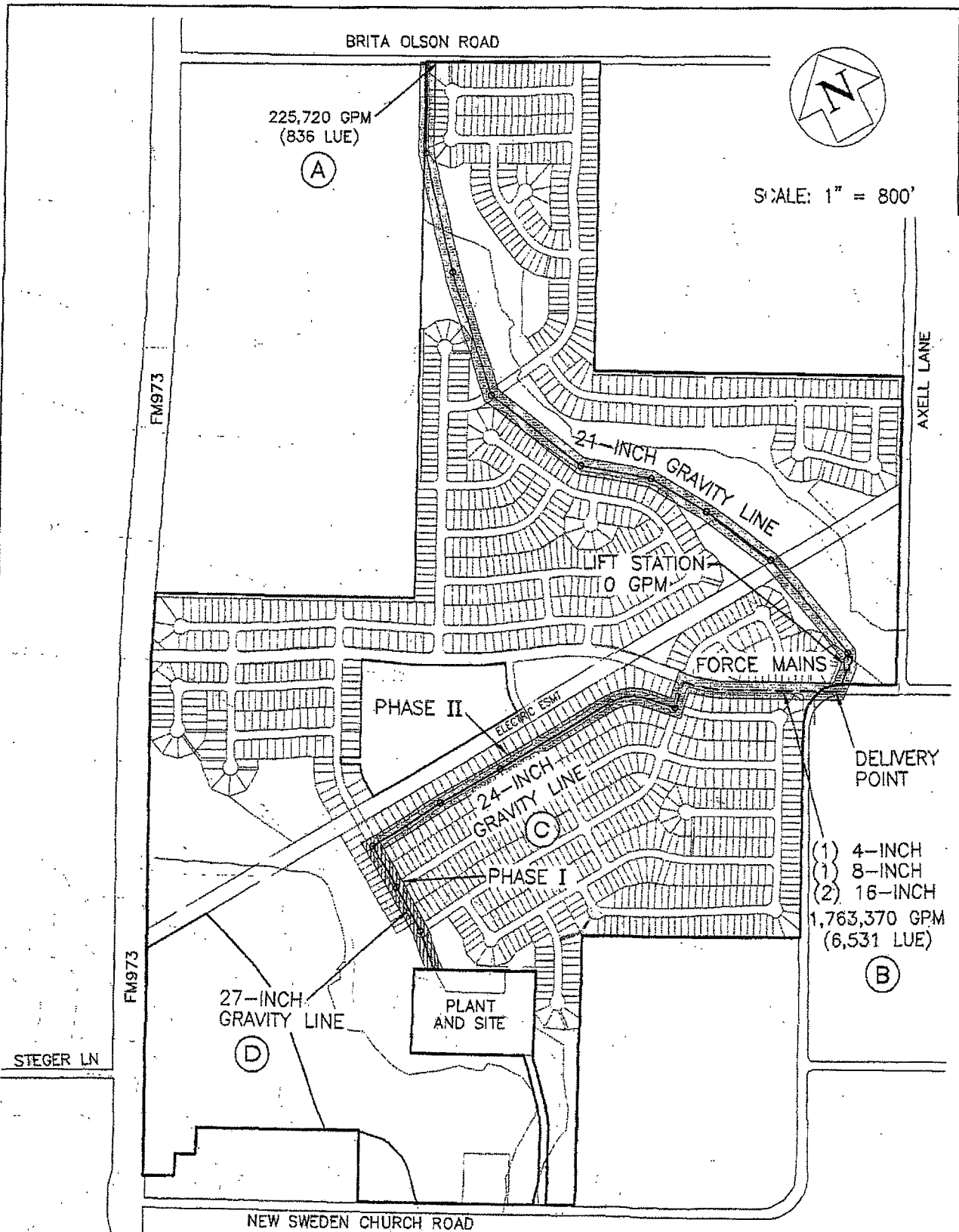
Rev. 7/25/06

	Transmission System Segment	Total Capacity		MUD 1 Reserved Capacity		MUD 2 Reserved Capacity		MUD 3 Reserved Capacity		Excess Capacity	
		GPD	LUE	GPD	LUE	GPD	LUE	GPD	LUE	GPD	LUE
A	21" Gravity @ Brita Olson Road	958,500	3,550	234,900	870	497,880	1,844	0	0	225,720	836
B	Force Main along Collector	2,712,150	10,045	234,900	870	497,880	1,844	216,000	800	1,763,370	6,531
C	24" along road	2,970,000	11,000	259,200	960	497,880	1,844	216,000	800	1,996,920	7,396
D	27" to WWTP	3,066,120	11,356	530,550	1,965	497,880	1,844	216,000	800	1,821,690	6,747
	Lift Station @ Axell Road	732,780	2,714	234,900	870	497,880	1,844	0	0	0	0

Disclaimer: The above figures are preliminary only and subject to change based on final design

Note: MUD 2 LUEs include approximately 172 LUEs for commercial/school and 1672 LUEs for residential.

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SECTION



NO.	DATE	REVISIONS	BY
DESIGN: E.A.			
DRAWN: R.C.			
CHECKED:			
DATE: 7-25-05			
SHEET 1 OF 1			

PROJECT:

**EXHIBIT D - THE PROJECT
973 WASTEWATER COMPANY
TRANSMISSION SYSTEM**

PATE ENGINEERS

HOUSTON • DALLAS • AUSTIN • FORT WORTH
ARLINGTON • SAN ANTONIO

7801 NORTH CAPITAL OF
TEXAS HIGHWAY, SUITE 220
AUSTIN, TEXAS 78737

PH (512) 348-0600
FAX (512) 348-0604
WWW.PATEENGINEERS.COM

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Exhibit E
Project Costs

Phase	Cost	Engineering	Permit	Total
Phase I	\$ 3,040,126	\$ 405,854	\$ 377,681	\$ 3,823,661
Phase II	\$ 2,134,741	\$ 284,986	\$ -	\$ 2,419,727
Phase III	\$ 2,123,070	\$ 283,428	\$ -	\$ 2,406,498
Total	\$ 7,297,937	\$ 974,268	\$ 377,681	\$ 8,649,886

Above numbers do not include agreed-upon Site costs of \$180,000

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SECTION

973 WWTP Phase 1
02/21/07

Description	Qty	Unit	Unit Price	Total
Mobilization	1	LS	\$ 173,056	\$ 173,056
Base Material	907	YD	\$ 65	\$ 58,577
Concrete	572	YD	\$ 760	\$ 434,866
Site Concrete	1	LS	\$ 20,430	\$ 20,430
Yard Piping	1	LS	\$ 91,429	\$ 91,429
Silt Fence	3300	LF	\$ 4	\$ 13,240
Filter	1	EA	\$ 292,347	\$ 292,347
Paint Walls	3550	FT	\$ 15	\$ 54,173
Plant Equipment	1	LS	\$ 652,499	\$ 652,499
Electrical	1	LS	\$ 135,503	\$ 135,503
Gen Set	1	EA	\$ 84,854	\$ 84,854
Site Work	1	LS	\$ 80,466	\$ 80,466
Storm Water Drainage	1	LS	\$ 54,189	\$ 54,189
Blower Cover	1	EA	\$ 19,185	\$ 19,185
Fence 830'	830	LF	\$ 51	\$ 42,016
CL System	1	EA	\$ 21,529	\$ 21,529
Lift Station	1	EA	\$ 502,331	\$ 502,331
1" Water line	1	LS	\$ 43,559	\$ 43,559
Landscape	1	LS	\$ 106,781	\$ 106,781
Entry road	1	LS	\$ 159,095	\$ 159,095
Subtotal				\$ 3,040,126
Engineering				\$ 405,854
Total				\$ 3,445,980

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SECTION

973 WWTP Phase 2
02/21/07

Description	Qty	Unit	Unit Price	Total
Mobilization	1	LS	\$ 176,274	\$ 176,274
Base Material	1550	YD	\$ 53	\$ 82,755
Concrete	700	YD	\$ 759	\$ 531,314
Site Concrete	1	LS	\$ 20,430	\$ 20,430
Yard Piping	1	LS	\$ 91,429	\$ 91,429
Silt Fence	3300	LF	\$ 4	\$ 13,240
ETT Equip	1	LS	\$ 877,831	\$ 877,831
Paint Walls	1	FT	\$ 84,312	\$ 84,312
Electrical	1	LS	\$ 154,947	\$ 154,947
Site Work	1	LS	\$ 17,911	\$ 17,911
Road	1	LS	\$ 41,241	\$ 41,241
CL System	1	EA	\$ 7,176	\$ 7,176
Lift Station	1	EA	\$ 35,882	\$ 35,882
Subtotal				\$ 2,134,741
Engineering				\$ 284,986
Total				\$ 2,419,727

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SECTION

973 WWTP Phase 3
2/7/2007

Description	Qty	Unit	Unit Price	Total
Mobilization	1	LS	\$ 176,273	\$ 176,273
Base Material	1550	YD	\$ 53	\$ 82,755
Concrete	620	YD	\$ 760	\$ 471,033
Site Concrete	1	LS	\$ 20,429	\$ 20,429
Yard Piping	1	LS	\$ 91,428	\$ 91,428
Silt Fence	3300	LF	\$ 4	\$ 13,239
ETT Equip	1	LS	\$ 734,309	\$ 734,309
Filter	1	LS	\$ 292,347	\$ 292,347
Paint Walls	3040	FT	\$ 16	\$ 47,570
Electrical	1	LS	\$ 132,715	\$ 132,715
Site Work	1	LS	\$ 17,910	\$ 17,910
CL System	1	EA	\$ 7,176	\$ 7,176
Lift Station	1	EA	\$ 35,884	\$ 35,884
Subtotal				\$ 2,123,070
Engineering				\$ 283,428
Total				\$ 2,406,498

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UTILITIES & DISTRICTS
SECTION

EXHIBIT F

WHOLESALE WASTEWATER SERVICE AGREEMENT

This AGREEMENT is entered into by and between the CITY OF PFLUGERVILLE, TEXAS (the "City"), and NEW SWEDEN MUNICIPAL UTILITY DISTRICT NO. 3 (the "Customer").

RECITALS

A. The City owns, or has the right to acquire Permit No. WQ0014642001 to authorize the discharge of treated wastewater from a wastewater treatment plant located 2,500 feet east of the intersection of FM 973 and New Sweden Church Road. The proposed wastewater treatment plant will have a Phase I with a design capacity of 150,000 GPD, a Phase II with a design capacity of 475,000 GPD, and a final Phase III with a design capacity of 950,000 GPD.

B. The City and the Customer desire to enter into a wholesale wastewater service agreement setting out the terms and conditions for the City's provision of wholesale wastewater service to the Customer.

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations, and benefits described in this Agreement, the City and the Customer agree as follows:

**ARTICLE I.
DEFINITIONS**

Section 1.01. Definitions. As used in this Agreement each of the following terms has the meaning given to it as set out below:

"Capital Costs" means all costs of planning, designing, acquiring, constructing, developing, permitting, implementing, expanding, improving, enlarging, bettering and replacing the Wastewater Treatment Plant and the Transmission Facilities, including the interest on any funds borrowed to pay the costs of the design and construction of the Wastewater Treatment Plant and Transmission Facilities.

"City" means the City of Pflugerville, Texas, and its successors and assigns.

"Customer" means New Sweden Municipal Utility District No. 3 and its successors and permitted assigns.

"Daily Average Flow" has the meaning set out in the Permit.

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

"Delivery Point" means the point designated on Exhibit A at which the Customer shall deliver Wastewater to the City for transmission by the City to Wastewater Treatment Plant for treatment and disposal.

"Domestic Activity Waste" means wastewater that, when analyzed, indicates that the concentration of Biochemical Oxygen Demand (BOD₅) does not exceed 200 milligram per liter (mg/L), Total Suspended Solids (TSS) does not exceed 200 mg/L and Chemical Oxygen Demand (COD₅) does not exceed 450 mg/L.

"Effective Date" will mean the date of execution by both parties.

"GPD" means gallons per day.

"Initial Phase" means the initial expansion of the Wastewater Treatment Plant constructed by the City under the Permit Expansion.

"Initial Phase Approval Date" means the date that the TCEQ has both issued the Permit Expansion and approved the construction plans for the Initial Phase.

"LUE" means an amount of capacity equal to a Daily Average Flow of 270 GPD of wastewater.

"LUE Fee" has the meaning set out in Section 3.02(a).

"Metering Facilities" means the meter, meter vault, meter loop, housing or pit, and all metering equipment and appurtenances required to measure Wastewater delivered to the Delivery Point.

"Party" means either the City or the Customer, or their respective successors and permitted assigns, as the case may be and as the context may require.

"Permit" means TPDES Permit No. WQ0014642001 or any companion permit thereto on the same Wastewater Treatment Plant Site which may be applied for by the City.

"Permit Expansion" means proposed amendments to the Permit to increase the amount of treatment and discharge beyond 0.95 MGD to enable the City to provide wholesale wastewater service to Customer under this Agreement.

"Phase I of the Transmission Facilities" means the Transmission Facilities labeled as Phase I on Exhibit A.

"Phase II of the Transmission Facilities" means the Transmission Facilities Phase II on Exhibit A.

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JAN 27 2014
UTILITIES & ENVIRONMENTAL
SECTION

"Prime Rate" means the prime rate of interest payable quoted in the Wall Street Journal or a similar financial periodical of national circulation as the base rate on corporate loans at large U.S. Money Center Commercial Banks on the due date per annum.

"TCEQ" means the Texas Commission on Environmental Quality.

"Transmission Facilities" means the wastewater lines and lift station described on Exhibit A.

"Wastewater" includes (1) waterborne human waste and waste from domestic activities, such as washing, bathing and food preparation, (2) water, including inflow and infiltration, and (3) equivalent substances from non-domestic activities, including commercial and industrial waste that may be inherently equivalent or that is pre-treated to make it equivalent to Domestic Activity Waste.

"Wastewater Treatment Plant" means a wastewater treatment plant constructed and operated in accordance with the terms and conditions set forth in any Permit Expansion.

"Wastewater Treatment Plant Site" means the property shown on Exhibit A.

"Wholesale Wastewater Service Area" means the area described on Exhibit B to which the City has agreed to provide wastewater service to Customer on a wholesale basis under this Agreement.

"Winter Average Usage" means the average water usage for the months of December, January and February of all retail wastewater customers within the Wholesale Wastewater Service Area, which may be used to measure Wastewater delivered to the Delivery Point for the following 12- month period. If no such history exists for a new retail water customer, the Parties shall use for such retail customer the average of all Winter Average Usage for all of the customers with such historical usage records until the new retail customer has its own historical usage records.

Section 1.02. Other Defined Terms. Other defined terms used in this Agreement are described below and will have the meaning given to them as set out herein.

ARTICLE II. DELIVERY OF WHOLESALE WASTEWATER SERVICE

Section 2.01. Construction of Wastewater Treatment Plant.

(a) The Parties recognize that the Initial Phase of the Wastewater Treatment Plant will not be constructed until the Permit Expansion has been issued and the

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JAN 27 2014
UTILITIES & PUBLIC WORKS
SECTION

construction plans for the Initial Phase of the Wastewater Treatment Plant have been approved by the TCEQ.

(b) The City shall be responsible for the construction of the Wastewater Treatment Plant. The City shall determine the size of the phases and the timing of construction of the phases of the Wastewater Treatment Plant adequate to serve the Customer at the time required by the Customer; provided, however, that:

(i) If the amount of wastewater delivered to a phase of the Wastewater Treatment Plant by the Customer and any other parties served by the Wastewater Treatment Plant is equal to seventy-five percent (75%) of the capacity of that phase of the Wastewater Treatment Plant over any consecutive 90-day period, then the City shall commence planning and designing the next phase of the Wastewater Treatment Plant at that time, unless the City customers' anticipated growth does not warrant making the expansion.

(ii) If the amount of wastewater delivered to a phase of the Wastewater Treatment Plant by the Customer and any other parties served by the Wastewater Treatment Plant is equal to ninety percent (90%) of the capacity of that phase of the Wastewater Treatment Plant over any consecutive 90-day period, then the City shall commence construction of the next phase of the Wastewater Treatment Plant at that time and complete the construction within three hundred and sixty five (365) days, unless the City customers' anticipated growth does not warrant making the expansion.

Section 2.02. Customer Construction.

If the City is unable or unwilling to construct the Initial Phase of the Wastewater Treatment Plant or any expansions of the Wastewater Treatment Plant as required by Section 2.01, then Customer may give the City written notice specifying the default (the "Notice"). If, as a result of the default, the Customer is unable to provide wastewater service to any new retail connections, then, if the City fails to fully cure such default within ninety (90) days after receipt of the Notice, the Customer may, at its election, construct the phase of the Wastewater Treatment Plant that the City is unable or unwilling to construct. If, in spite of the default, the Customer is able to provide wastewater service to any new retail connections, then, if the City fails to commence the cure of such default within thirty (30) days after receipt of the Notice and to fully cure such default within three hundred and sixty-five (365) days, the Customer may, at its election, construct the phase of the Wastewater Treatment Plant that the City is unwilling or unable to construct. If the Customer elects to construct a phase of the Wastewater Treatment Plant under this Section, then: (i) the City shall fully cooperate with the Customer in efforts to obtain necessary governmental and regulatory approvals and permits and will use its best efforts to provide assistance in this regard; (ii) the facilities

constructed by the Customer may be located on the Wastewater Treatment Plant Site at no cost to the Customer; (iii) all Capital Costs related to the construction of the facilities shall be paid for solely by the Customer; (iv) all facilities constructed by the Customer shall be owned by the Customer; and (v) all facilities constructed by the Customer shall be operated by the City unless otherwise permitted by this Agreement. In the event the Customer pays the Capital Costs for any phase of the Wastewater Treatment Plant under to this Section, the Customer shall receive a credit for any Capital Costs paid by the Customer to construct any phase of the Wastewater Treatment Plant under this Agreement.

Section 2.03. Maximum Volume and Rate of Flow. Beginning on the date after substantial completion of the construction of the Initial Phase of the Wastewater Treatment Plant, the City will accept, treat, and dispose of and the Customer may deliver, at the Delivery Point, Wastewater collected from the Wholesale Wastewater Service Area in the amounts up to a total Daily Average Flow of 216,000 gallons per day.

ARTICLE III. PAYMENT

Section 3.01. Monthly Charge.

(a) The Customer will pay the City a monthly charge (the "Monthly Charge") equal to the applicable rate under Section 3.01(b) times each 1000 gallons of Wastewater received at the Delivery Point.

(b) The initial rate for Wastewater received at the Delivery Point is \$4.00 per 1000 gallons. Beginning on January 1, 2007, and annually thereafter, the initial rate will be increased by an amount calculated by multiplying the initial rate times the percentage difference between the Base CPI and the CPI computed by the Bureau for the month of September for the year preceding the Year in Question. For purposes of this subsection: (i) "Bureau" means the United States Department of Labor, Bureau of Labor Statistics, or any other agency succeeding to the Bureau's function of computing the CPI; (ii) "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average as computed by the Bureau for a given month; (iii) "Base CPI" means the CPI computed by the Bureau for the month of September 2005; and (iv) "Year in Question" means the 12-month period commencing on January 1 of each year for which the price of Wastewater treatment is to be determined as provided in this subsection.

(c) A billing period for the Monthly Charge is an approximate 30-day period as established by applicable City wastewater service ordinances. The City will bill the Customer once each month for the amount owed for the Monthly Charge. Each bill will be accompanied by a statement of the amount of Wastewater received during the billing

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JAN 27 2014
UTILITIES & R.I.P.
SECTION

period, a statement of the applicable rate under Section 3.01(b), and a statement of the total amount due.

(d) The Customer will pay the amounts owed for the Monthly Charge to the City on or before the 15th day following the invoice date on the bill or as otherwise provided by applicable City wastewater service ordinance..

Section 3.02. LUE Fees.

The Customer will pay the City's lawfully-adopted wastewater impact fee for each retail connection the Customer serves within the Wholesale Service Area (the "LUE Fee"), with such impact fees being paid for each final platted area at the time of, and as a condition to recordation of any final plat.

Section 3.03. Payment. All amounts due to the City under this Article will be deemed paid when the Customer delivers the full payment to the City at the address set out in Section 7.03. For each day after the due date that the amounts due remain unpaid, the Customer will pay interest or penalties as required by applicable City wastewater service ordinances.

ARTICLE IV. METERING FACILITIES

Section 4.01. Installation of Metering Facilities. The City may, at the City's election, use any of the following methods for measuring the amount of Wastewater delivered to the Delivery Point: (a) Metering Facilities; or (b) Winter Average Usage. If the City elects to use Metering Facilities, then the Customer, at Customer's sole expense, will provide and install the Metering Facilities at the Delivery Point. The plans and specifications for the Metering Equipment will be submitted to the City for review and approval. After obtaining approval of the plans and specifications from the City, the Customer shall provide written notice to the City of the date on which construction of the Metering Facilities is scheduled to begin, and the construction and installation of the Metering Equipment will be subject to inspection by the City. Following the installation of the Metering Facilities in accordance with the approved plans and specifications, the Metering Facilities will be the property of the City for all purposes. Within 180 days following completion and final acceptance of the Metering Facilities, the Customer will provide the City with as-built drawings for the completed Metering Facilities.

Section 4.02. Operation of Metering Facilities. If the City elects to use Metering Facilities, then the City, at the City's sole expense, will operate and maintain the Metering Facilities. The City shall calibrate the metering equipment at least annually. If requested in writing by the Customer, but not more than once in each calendar year, the City will calibrate one or more Meters in the presence of a Customer representative. The City will

RECEIVED
JAN 27 2014

**UTILITIES & DISTRICTS
SECTION**

give the Customer at least five (5) days notice of the time that the requested calibration will take place.

Section 4.03. Estimated Amounts. If the City elects to use Metering Facilities and the Metering Facilities are out of service or out of repair so that the amount of Wastewater delivered to the Delivery Point cannot be ascertained or computed from reading the Meter, the Wastewater delivered during the period the Metering Facilities are out of service or out of repair will be estimated and agreed upon by the City and the Customer based upon Winter Average Usage.

ARTICLE V. OPERATION AND MAINTENANCE OF FACILITIES

Section 5.01. Wastewater Treatment Plant. The City will be solely responsible for the design, engineering, financing, construction, installation, inspection, operation, maintenance, and repair of the Wastewater Treatment Plant as follows:

(a) The Wastewater Treatment Plant will be maintained and operated in accordance with the Permit, all other applicable regulatory requirements, and accepted good City operating practices.

(b) The City will use reasonable diligence and care to continually hold itself ready, willing and able to supply wholesale wastewater service to the Customer as provided in this Agreement.

(c) The City will promptly repair any defects in the Wastewater Treatment Plant and take all steps reasonably necessary to remedy immediately any interruptions of wholesale wastewater service to the Customer as provided in this Agreement.

(d) The City will maintain and carry in full force and effect from the date of the commencement of operation of the Wastewater Treatment Plant fire, property and casualty insurance in an amount of the full replacement cost of the Wastewater Treatment Plant.

Section 5.02. Collection and Transportation Facilities.

(a) The Customer shall be solely responsible for the design, engineering, financing, construction, installation, inspection, operation, maintenance, repair and replacement of all facilities for the collection and transportation of Wastewater to the Delivery Point. All Wastewater collection and transportation facilities within the Wholesale Wastewater Service Area will be built to the City of Pflugerville Engineering Design Guidelines and Construction Standards Manual and the City's Site Development Code Standards as currently set forth in Chapter 155 of the City Code except that the

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UTILITIES & DISTRICTS
SECTION

Utility and the Developer shall not be required to backfill utility trenches with compacted base materials, but will backfill utility trenches as provided for by the City's 1993 Construction Standards Manual Specification Item 0533. Particular care and attention shall be given by the Customer to the construction of the Customer's facilities so as to minimize to the greatest extent reasonably practicable the potential for inflow and infiltration into the Customer's facilities.

(b) The Customer shall provide written notice to the City of the date on which construction of any Wastewater collection and transportation facilities within the Wholesale Wastewater Service Area is scheduled to begin, and the construction and installation of those facilities will be subject to inspection by the City to ensure compliance with Section 5.02(a).

(c) The requirements of this Section 5.02 shall be contained, and enforced, in all other agreements by the City for wastewater service from the Wastewater Treatment Plant.

ARTICLE VI. TERM, ASSIGNMENT AND REMEDIES

Section 6.01. Term.

The term of this Agreement will commence on the Effective Date and continue for forty (40) years thereafter.

Section 6.02. Assignment.

This Agreement is not assignable, in whole or in part, by either Party except without the prior written consent of the other Party, which consent will not be unreasonably withheld, delayed, or conditioned. Any assignment of rights or delegation of duties under this Agreement is void without the written consent described above.

Section 6.03. Remedies.

In addition to any remedy provided in section 2.02 hereof, in the event of default by any Party, a non-defaulting Party may give the defaulting Party written notice specifying the default (the "Notice"). If the defaulting Party fails to fully cure any default that can be cured by the payment of money ("Monetary Default") within sixty (60) days after receipt of the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within thirty (30) days after receipt of the Notice and thereafter to diligently pursue such cure to completion, then the other Party will be entitled: (i) to a proper writ issued by a court of competent jurisdiction compelling and requiring the defaulting Party to observe and perform the covenants, obligations and

conditions described in this Agreement; and (ii) to pursue all other legal or equitable remedies. The prevailing Party in any litigation will be entitled to recover all of the expenses it has incurred, including reasonable attorneys' fees. Notwithstanding the foregoing, the City shall not be entitled to any remedy which would prevent the Customer from obtaining and utilizing the LUEs of service capacity reserved by the Customer's payment of LUE Fees under this Agreement so long as the Customer pays the Monthly Charge associated with service from such LUEs of capacity, it being the intent of the parties that the Customer shall be entitled to the amount of capacity paid for by it for the term of this Agreement so long as it pays the associated Monthly Charge.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.01. Title to and Responsibility for Wastewater. Title to, possession and control of Wastewater will remain with the Customer until it passes the Delivery Point, where title, possession and control shall pass to the City.

Section 7.02. Regulatory Action. The obligations of City to provide wholesale wastewater service are subject to all present and future regulatory requirements, and the Parties agree to cooperate to make such applications and to take such action as may be desirable to obtain compliance therewith. If action by the Customer results in the City incurring costs and expenses in any regulatory proceeding, the Customer shall reimburse the City for the reasonable and necessary costs of such regulatory proceeding within sixty (60) days of notice of the amounts of the reasonable and necessary costs.

Section 7.03. Notice. Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three (3) days after the date of mailing. Notice given in any other manner will be effective only when received. For purposed of notice, the addresses of the parties will, until changed as provided below, be as follows:

Customer: New Sweden MUD 3
C/O Freeman & Corbett, LLP
8500 Bluffstone Cove, Ste. B-104
Austin, TS 78759
Fax: 512-453-0865

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JAN 27 2014

UTILITIES & SERVICES
SECTION

City: City of Pflugerville
Attn: City Manager

Pflugerville, TX ____
Fax: 512-____-____

The parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days' written notice to the other party. The Customer and the City may, by giving at least five (5) days' written notice to the Party, designate additional persons to receive copies of notices under this Agreement.

Section 7.04. Force Majeure. If either Party hereto is rendered unable by Force Majeure to carry out one or more of its obligations under this Agreement, then such obligations shall be suspended during the continuance of the inability caused by Force Majeure; provided that the Party claiming such inability uses reasonable diligence resume performance at the earliest practical time. The term "Force Majeure," as used herein, shall include, without limitation of the generality thereof, (i) acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, arrests, restraint of government and people, civil disturbances, explosions, and (ii) breakage or accidents to machinery, pipelines or facilities, so long as such breakage or accidents could not have been avoided by the exercise of due diligence and care, (iii) any other incapacities, whether similar to those enumerated or otherwise, which are not within the control of the Party claiming such inability and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty. It is specifically provided, however, that the provisions of this Section shall not excuse the City from a material breach of this Agreement related to the failure of the City to provide service at the times and levels provided in this Agreement caused by to the City's failure to obtain or comply with, or the City's negligence in obtaining or complying with, the Permit or any similar governmental requirements.

Section 7.05. Records. Each Party agrees to keep accurate records and documentation of all of its business activities reasonably relating to the activities of such Party pursuant to this Agreement. Each Party shall have the right to review such books and records of the other Party at all times after first providing the other Party with at least five (5) days

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

prior written notice, and, at its sole expense, to obtain copies of such records and documentation.

Section 7.06. Severability; Waiver.

(a) If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

(b) Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 7.07. Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.

Section 7.08. Entire Agreement. This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties. This Agreement supersedes all other agreements between the parties concerning the subject matter.

Section 7.09. Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 7.10. Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls

on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Section 7.11. Authority for Execution. The City and the Customer hereby certify, represent, and warrant that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on behalf of the Customer and the City.

Section 7.12. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A Delivery Point, Transmission Facilities and Wastewater Treatment Plant Site

Exhibit B Wholesale Wastewater Service Area

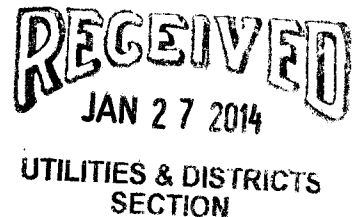
IN WITNESS WHEREOF, this instrument is executed as of the Effective Date.

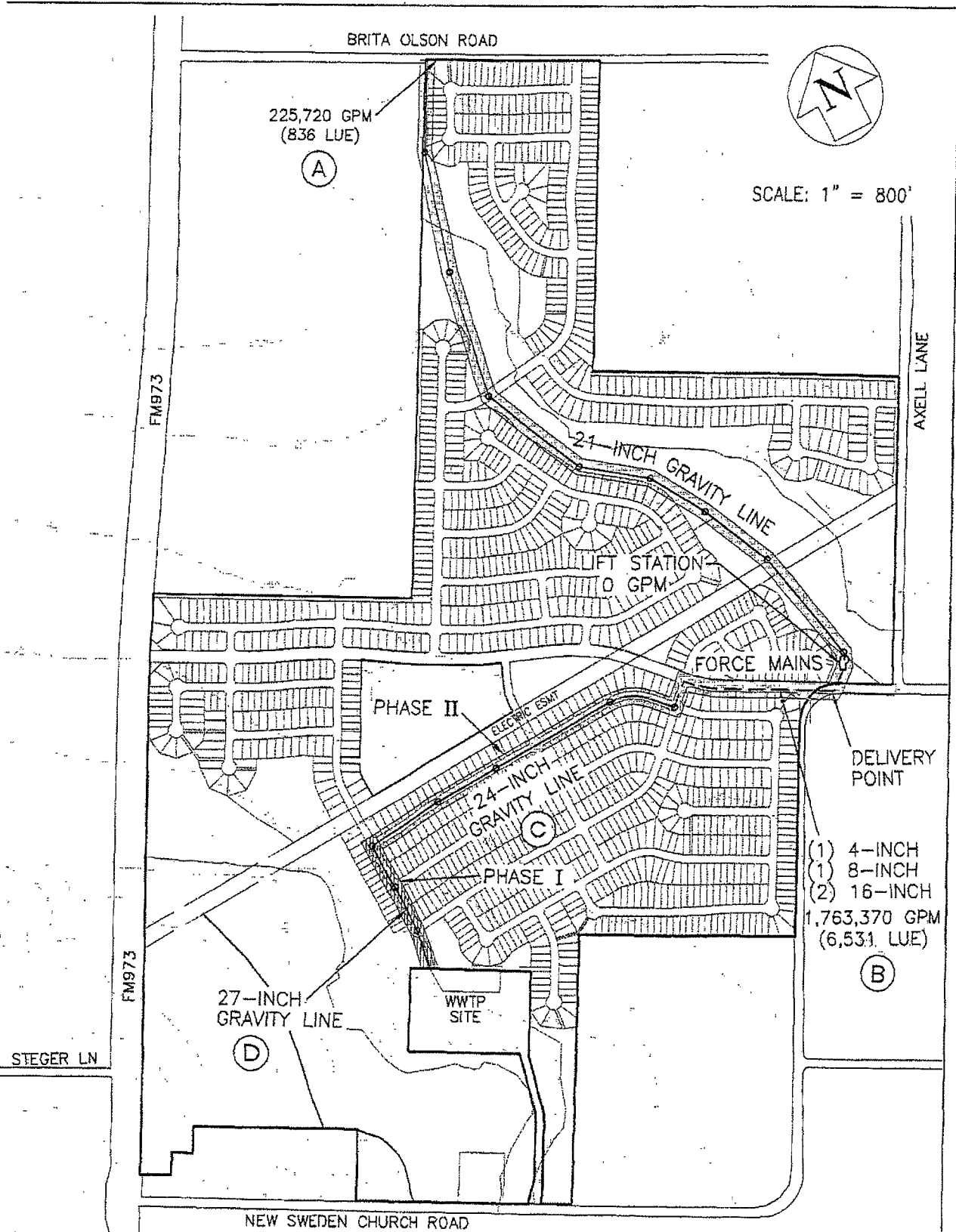
CITY OF PFLUGERVILLE, TEXAS

By: _____
City Manager
Date: _____

NEW SWEDEN MUD 3

By: _____
_____, President
Date: _____





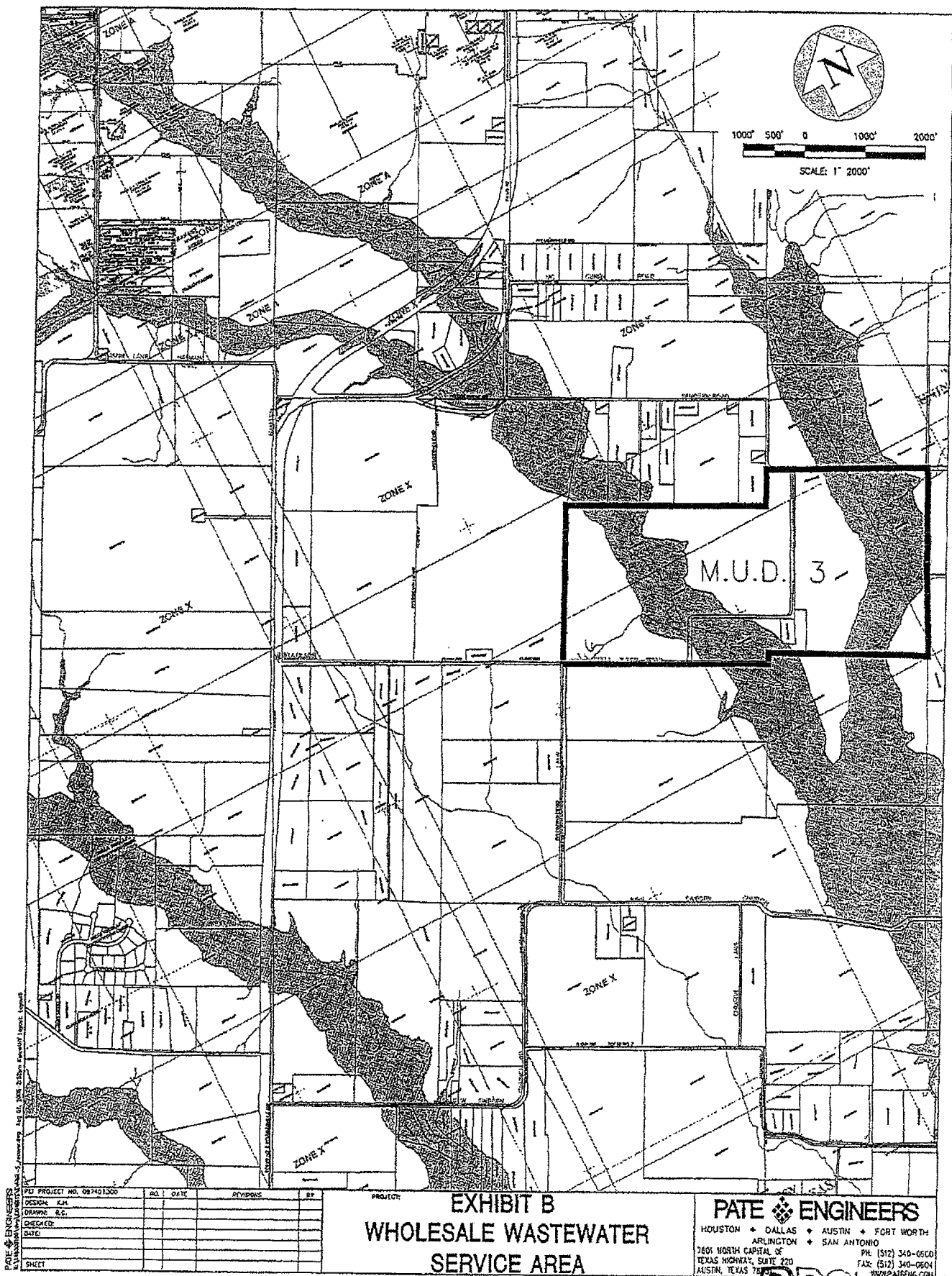
PROJECT NO. 1-1800001	NO.	DATE	REVISIONS	BY
DESIGN: K.H.				
DRAWN: R.C.				
CHECKED:				
DATE: 7-25-08				
SHEET 1 OF 1				

EXHIBIT A
973 WASTEWATER COMPANY
TRANSMISSION SYSTEM

PATE ENGINEERS
HOUSTON • DALLAS • AUSTIN • FORT WORTH
ARLINGTON
7801 NORTH CAPITAL OF
TEXAS HIGHWAY, SUITE 220
AUSTIN, TEXAS 78731

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SECTION



PROJECT NO. 08-041300	NO.	DATE	REVISIONS	BY
DESIGN: E.M.				
DRAWN: R.C.				
CHECKED:				
DATE:				
SHEET				

EXHIBIT B
WHOLESALE WASTEWATER
SERVICE AREA

PATE ENGINEERS
HOUSTON • DALLAS • AUSTIN • FORT WORTH
ARLINGTON • SAN ANTONIO
7801 NORTH CAPITAL OF
TEXAS HIGHWAY, SUITE 220
AUSTIN, TEXAS 78758
PH: (512) 340-0600
FAX: (512) 340-0604
WWW.PATEENGINEERS.COM

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**FIRST ADDENDUM TO
AGREEMENT CONCERNING WASTEWATER SERVICE**

This First Addendum to Agreement Concerning Wastewater Service (the "Addendum") is entered into between the City of Pflugerville, Texas, a home-rule city located in Travis County, Texas (the "City") and RMD Construction, Inc. d/b/a 973 Wastewater Company ("973 Wastewater Company"). Collectively, the City and 973 Wastewater Company are hereafter referred to sometimes as the "Parties."

RECITALS

A. The City and 973 Wastewater Company have entered into an Agreement Regarding Wastewater Service dated as of March 14, 2007 (the "Agreement"), governing certain aspects of the provision of wastewater service to the Tract.

B. Among other things, the Agreement provides the City with an Option to purchase the Property from 973 Wastewater Company on the terms and conditions set forth in the Agreement.

C. The City and 973 Wastewater Company desire to amend the Agreement to provide for the City's purchase of the Property on specified terms and conditions.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and 973 Wastewater Company agree as follows:

Sec. 1 Definitions. All terms delineated with initial capital letters but not defined in this Addendum will have the meaning ascribed in the Agreement. Other terms have the meanings commonly ascribed to them.

Sec. 2 Property. For the purchase price and upon the terms and conditions hereinafter set forth, 973 Wastewater Company does hereby agree to sell to the City, and the City does hereby agree to purchase from 973 Wastewater Company: (a) the Permit; (b) that certain 10-acre tract of real property, together with all improvements located thereon, if any, situated in Travis County, Texas, and described on Exhibit G attached hereto (the "Wastewater Treatment Plant Site"); (c) all rights of 973 Wastewater Company to plats, site plans, approvals, permits, and other development rights and benefits associated with the Wastewater Treatment Plant Site ("Appurtenances"); (d) all rights of 973 Wastewater Company to engineering work product associated with the Permit, including Treatment Plant construction plans ("Engineering Work Product"); (e) all rights of 973 Wastewater Company under that Temporary Access and Drainage Easement dated as of October 12, 2006, and recorded as Instrument No. 2006201505 in the Official Property Records of Travis County, Texas, under that Temporary Access and Drainage Easement dated as of October 12, 2006, and recorded as Instrument No. 2006201493 in the Official Property Records of Travis County, Texas, and under that Private Utility Easement

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JAN 27 2007

UTILITIES & DIS
SECTION

dated as of October 12, 2006, and recorded as Instrument No. 20006201494 in the Official Property Records of Travis County, Texas (collectively, the "Easements"); and (f) all rights and obligations of 973 Wastewater Company under that Settlement Agreement between 973 Wastewater Company and Phillip Arellano, *et al.* dated as of June 27, 2006 relating to the Permit. The Permit, the Wastewater Treatment Plant Site, the Appurtenances, the Engineering Work Product, the Easements, and the Settlement Agreement are collectively referred to as the "Property."

Sec. 3 Purchase Price. The purchase price of the Property shall be: (a) two million seven hundred and fifty thousand and no/100 dollars (\$2,750,000.00) for the Permit; (b) one hundred and eighty thousand and no/100 dollars (\$180,000.00) for the Wastewater Treatment Plant Site and the Easements; and (c) reimbursement of the expenses associated with the Engineering Work Product and Appurtenances set out in Exhibit H, which the City hereby approves (the "Reimbursement Amount").

Sec. 4 Inspection. The City shall have reasonable access to the Wastewater Treatment Plant Site and Easements for inspection purposes during all normal business hours prior to closing, and 973 Wastewater Company agrees to cooperate with and assist Purchaser in its inspection of the Property. The City agrees to pay any costs or claims resulting from such inspection. This Section 4 shall expressly survive closing and any earlier termination of this Addendum.

Sec. 5 Representations. 973 Wastewater Company represents to Buyer that as of the Effective Date of this Addendum and as of the date of closing:

(a) Seller has full and complete title to the Wastewater Treatment Plant Site and the Easements subject to no liens or encumbrances other than the Permitted Exceptions, and will convey such title to the City at closing.

(b) Seller has not transferred any interest in the Permit to any person other than the City.

(c) Seller has not transferred any interest in the Appurtenances to any person.

(d) Seller has not transferred any interest in the Contract to any person.

(e) IT IS UNDERSTOOD AND AGREED THAT, EXCEPT AS PROVIDED IN SEC. 4(a), (b), (c) AND (d) ABOVE, 973 WASTEWATER COMPANY IS NOT MAKING, AND SPECIFICALLY DISCLAIMS, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY. THE CITY WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS THE CITY DEEMS NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF AND SHALL RELY UPON SAME. THE CITY ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS" WITH ALL FAULTS. THE CITY

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

FURTHER ACKNOWLEDGES AND AGREES THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS MADE BY 973 WASTEWATER COMPANY, ANY AGENT OF 973 WASTEWATER COMPANY OR ANY THIRD PARTY WITH RESPECT TO THE PROPERTY, EXCEPT AS PROVIDED IN SEC. 4(a), (b), (c) AND (d) ABOVE. THE TERMS AND CONDITIONS OF THIS SECTION 4(e) SHALL EXPRESSLY SURVIVE THE CLOSING AND SHALL BE INCORPORATED INTO THE SPECIAL WARRANTY DEED TO BE EXECUTED AND DELIVERED AT CLOSING.

- (f) The matters set out in Exhibit K.

Sec. 6 Closing.

(a) The transactions contemplated in this Addendum shall be closed on a date set by the City, but in no event shall closing be later than 10:00 a.m. on the fifteenth (15th) day following the Addendum Effective Date (as hereinafter defined). The closing shall take place at the main Austin, Texas office of Independence Title Company or at such other location mutually acceptable to 973 Wastewater Company and the City.

(b) At closing, 973 Wastewater Company shall deliver to the City: (i) an executed special warranty deed in the form attached as Exhibit I conveying fee simple title to the Wastewater Treatment Plant Site to the City; and (ii) an executed bill of sale and assignment of the Permit, the Engineering Work Product, the Appurtenances, and the Easements to the City in the form attached as Exhibit J. At closing, the City shall: (i) pay one million one hundred and eighty thousand and no/100 dollars (\$1,180,000.00) to 973 Wastewater Company in immediately available funds; (ii) pay the Reimbursement Amount less an amount equal to the City's wastewater impact fee for 150 service units to Wilson in immediately available funds; (iii) credit Wilson with payment of wastewater impact fees for 150 service units within MUD 1; (iv) deliver an executed promissory note in the form attached as Exhibit L to 973 Wastewater Company (the "Promissory Note"); and (v) deliver an executed deed of trust in the form attached as Exhibit M to 973 Wastewater Company.

Sec. 7 Cooperation.

(a) 973 Wastewater Company shall cooperate fully with and assist the City and execute such documents as may be necessary in connection with the approval of the assignment of the Permit and the Appurtenances by any regulatory authority having jurisdiction; provided, however, that the City shall not obligate or impose any liability or cost upon 973 Wastewater Company in connection with such activities.

(b) The City agrees that, at or before the time of closing, the City will create a sinking fund of at least two per cent on the debt created by the Promissory Note in accordance with Article 11, § 5 of the Texas Constitution. The City's failure to create this sinking fund and to maintain it in existence until the City has paid the amounts due under the Promissory Note in full will be a default under this Agreement.

- (c) The terms and conditions of this Section 7 shall expressly survive closing.

Sec. 8 Annexation. This Addendum shall constitute 973 Wastewater Company's petition and request that the City Council annex the Wastewater Treatment Plant Site into the corporate limits of the City.

Sec. 9 Default.

(a) In the event 973 Wastewater Company shall be in default under this Addendum, the City not being in default, the City shall be entitled, as the City's sole remedies, to either (i) enforce specific performance of this Addendum against 973 Wastewater Company, or (ii) cancel this Addendum.

(b) In the event the City shall be in default under this Addendum, 973 Wastewater Company not being in default, 973 Wastewater Company shall be entitled, as 973 Wastewater Company's sole remedies, to either (i) enforce specific performance of this Addendum against City, or (ii) cancel this Addendum.

Sec. 10 Entire Agreement. This Addendum, together with the Agreement, sets forth the entire understanding of the Parties and supersedes all prior agreements or understandings, whether written or oral, with respect to the subject matter hereof. No amendments or modifications hereto will be valid unless made in writing and signed by the City and the Developers.

Sec. 11 Effect of Addendum. The City and the Developers agree that the Agreement remains valid, binding and in full force and effect until the date the closing described in Section 6 occurs.

Sec. 12 Termination. Following the closing described in Section 6: (a) the Agreement will terminate and be of no further force and effect; and (b) this Addendum will terminate and be of no force and effect except as expressly provided herein. If the closing does not occur before the expiration of the Option Period, then this Addendum shall terminate and be of no further force and effect and the Agreement will remain in full force and effect.

Sec. 13 Binding Effect. This Addendum will extend to and be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Sec. 14 Counterparts. This Addendum may be executed in any number of counterparts, including, without limitation, facsimile counterparts, with the same effect as if all parties hereto had signed the same document, and all counterparts will constitute one and the same agreement.

Sec. 15 Effective Date. This Addendum shall be effective on the first date it has been executed by both parties (the "Addendum Effective Date").

Sec. 16 Exhibits. The following exhibits are attached to this Addendum, and made a part hereof for all purposes:

Exhibit G	Wastewater Treatment Plant Site description
Exhibit H	Reimbursement Amount calculation
Exhibit I	Special Warranty Deed
Exhibit J	Bill of Sale and Assignment
Exhibit K	Additional Representations and Warranties
Exhibit L	Promissory Note
Exhibit M	Deed of Trust

EXECUTED in multiple originals this 13 day of February, 2008.

[SIGNATURE PAGE TO FOLLOW]

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

SIGNATURE PAGE TO
FIRST ADDENDUM TO
AGREEMENT CONCERNING WASTEWATER SERVICE

CITY:
CITY OF PFLUGERVILLE, TEXAS

By: David Buesing
David Buesing, City Manager

Date: 2/13/08

973 WASTEWATER COMPANY:
RMD CONSTRUCTION, INC.,
a Texas corporation, d/b/a
973 WASTEWATER COMPANY

By: Rhett Dawson
Rhett Dawson, President

Date: 2/13/08

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

EXHIBIT G
METES AND BOUNDS DESCRIPTION
OF 10.00 ACRES OF LAND
IN THE THEOPHILUS ELLISON SURVEY, A-260
TRAVIS COUNTY, TEXAS

All that certain 10.00 acres of land, out of the 100 acre tract described in the deed from Herman Hees, et ux to Raymond Hees, et ux recorded under Volume 1851, Page 271, in the Deed Records of Travis County, Texas, in the Theophilus Ellison Survey, A-260, Travis County, Texas, and more particularly described by metes and bounds as follows: (All bearings are based on the Texas State Plane Coordinate System, Central Zone)

COMMENCING at a ½" iron rod found for the northwest corner of the 5.352 acre tract described in the deed from Joe Arellano, et ux to Phillip Arellano and Rebecca Ann Lopez-Arellano recorded under Document No. 2000100100, in the Official Public Records of Travis County, Texas, from which a square bolt found for the northwest corner of the 49.49 acre tract described in the deed from George Ralph Green, et ux to Kermit Hees, et ux recorded under Volume 3824, Page 590, in the Deed Records of Travis County, Texas, common to the northeast corner of aforesaid 100 acre tract bears North 27°53'16" East - 1518.91'; **THENCE** South 28°03'24" West - 1627.61', along the west line of said 5.352 acre tract and the west line of the 7.21 acre tract described in the deed from James Phillip Covey, et ux to Leon R. Ortega and Joe Arellano recorded under Volume 3903, Page 2054, in the Deed Records of Travis County, Texas, to the southwest corner of said 7.21 acre tract, in the north right-of-way line of New Sweden Church Road; **THENCE** North 62°19'26" West - 129.11', along said north right-of-way line, to a ½" iron rod set for the southeast corner and **POINT OF BEGINNING** of the herein described tract;

THENCE North 62°19'26" West - 77.86', continuing along said north right-of-way line, to a ½" iron rod set for the most southerly southwest corner of the herein described tract;

THENCE North 28°03'24" East - 26.74' to a ½" iron rod set for an angle corner of the herein described tract;

THENCE North 41°00'20" East - 124.33' to a ½" iron rod set for an angle corner of the herein described tract;

THENCE North 28°03'24" East - 342.29' to a ½" iron rod set for the Point of Curvature of a curve to the left, having a central angle of 17°05'48", and a radius of 300.00';

THENCE along said curve to the left, in a northerly direction, an arc distance of 89.52' to a ½" iron rod set for the end of curve;

THENCE North 10°57'36" East - 341.13' to a ½" iron rod set for an angle corner of the herein described tract;

THENCE North 61°56'36" West - 712.03' to a ½" iron rod set for the most westerly southwest corner of the herein described tract;

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

Page 2 – 10.00 Acres

THENCE North 28°03'24" East - 504.00' to a ½" iron rod set for the northwest corner of the herein described tract;

THENCE South 61°56'36" East - 768.14' to a ½" iron rod set for the northeast corner of the herein described tract;

THENCE South 28°03'24" West - 516.34' to a ½" iron rod set for an angle corner of the herein described tract;

THENCE South 10°57'36" West - 312.84' to a ½" iron rod set for the Point of Curvature of a curve to the right, having a central angle of 17°05'48", and a radius of 350.00';

THENCE along said curve to the right, in a southerly direction, an arc distance of 104.44' to a ½" iron rod set for the end of curve;

THENCE South 28°03'24" West - 489.69' to the **POINT OF BEGINNING** of the herein described tract and containing 10.00 acres of land.

Prepared by:
PATE SURVEYORS
a division of
Pate Engineers, Inc.
Job No. 1480-001-00-A520
Revised: September 21, 2005

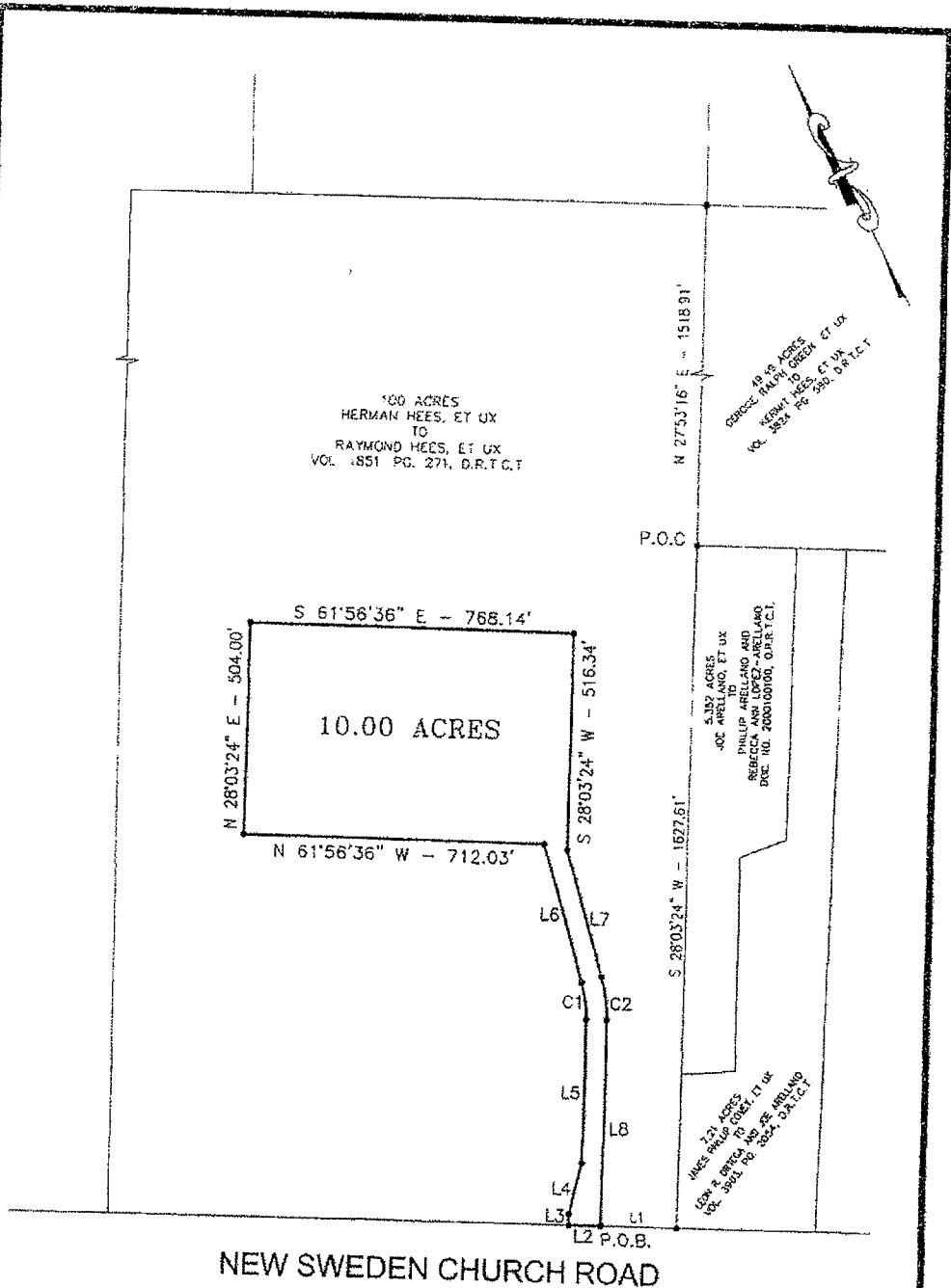


NEIL HINES

Certification Date
September 8, 2005

THIS LEGAL DESCRIPTION IS ISSUED IN CONJUNCTION WITH THE SURVEY
CONDUCTED BY PATE SURVEYORS ON SEPTEMBER 8, 2005.

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UTILITIES & DISTRICTS
SECTION



LINE	BEARING	DISTANCE
L1	N 62°19'26" W	129.11'
L2	N 82°19'26" W	77.88'
L3	N 28°03'24" E	28.74'
L4	N 41°00'30" E	124.33'
L5	N 28°03'24" E	342.23'
L6	N 10°57'36" E	341.13'
L7	S 10°57'36" W	312.84'
L8	S 28°03'24" W	489.69'

CURVE	DELTA	RADIUS	LENGTH
C1	17°05'48"	550.00'	89.52'
C2	17°05'48"	550.00'	104.44'

3801 HENRY CAPITAL OF TEXAS HIGHWAY, SUITE 220-PM 512.540.0000 FAX 512.340.0004

EXHIBIT B

10.00 ACRES

WASTE WATER TREATMENT PLANT SITE

IN THE

THEOPHILUS ELLISON SURVEY, A-260

TRAVIS COUNTY, TEXAS

DATE: 8/8/05

ISSUED: 8/8/05

SCALE: 1"=100'

JOB NO.: 1480-001-00-A520

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JAN 27 2014

UTILITIES & DISTRICTS SECTION

EXHIBIT H

Type	Date	Num	Name	Memo	Split	Amount
Wastewater Utility Profit Loss Detail						
General Journal	11/01/2005	1001	Aqua-Tech	Inv# 04453	Due to New Sweden MFC	\$ 301.70
Check	01/16/2006	1006	Austin American Stationer	973 WWIC Public Notice	Compass Bank Checking	\$ 3,198.00
Check	10/26/2005	1001	Mr. Andrew Barrett, Attorney	Legal Fees - 973 Wastewater Permit Application	Compass Bank Checking	\$ 1,500.00
Bill	06/30/2006	1030	Mr. Andrew Barrett, Attorney	6/30/06 Statement	Accounts Payable	\$ 32,589.99
Check	06/23/2006	1023	Law Offices of John E. Carlson, P.C. Trust	Settlement	Compass Bank Checking	\$ 85,000.00
Check	05/24/2006	1016	Buck & Elaine Grabowski	Settlement Agreement	Compass Bank Checking	\$ 5,000.00
Check	12/05/2005	1002	Graves Dougherty Heaton & Moody	Inv# 231805 - Legal	Compass Bank Checking	\$ 2,080.00
Check	12/05/2005	1002	Graves Dougherty Heaton & Moody	Inv# 232146 - Legal	Compass Bank Checking	\$ 4,002.40
Check	01/13/2006	1003	Graves Dougherty Heaton & Moody	Inv# 232820	Compass Bank Checking	\$ 881.10
Check	02/08/2006	1007	Graves Dougherty Heaton & Moody	Inv# 234080	Compass Bank Checking	\$ 975.00
Check	03/10/2006	1010	Graves Dougherty Heaton & Moody	Inv# 234788	Compass Bank Checking	\$ 304.38
Check	03/12/2006	1013	Graves Dougherty Heaton & Moody	Inv# 235300	Compass Bank Checking	\$ 7,904.10
Check	03/16/2006	1015	Graves Dougherty Heaton & Moody	Inv# 235959	Compass Bank Checking	\$ 7,322.20
Check	06/15/2006	1019	Graves Dougherty Heaton & Moody	Inv# 237409	Compass Bank Checking	\$ 5,488.47
Check	06/26/2006	1024	Graves Dougherty Heaton & Moody	Inv# 237807	Compass Bank Checking	\$ 7,503.30
Check	07/18/2006	1026	Graves Dougherty Heaton & Moody	Inv# 238445	Compass Bank Checking	\$ 5,464.00
Check	08/16/2006	1028	Graves Dougherty Heaton & Moody	Inv# 239311	Compass Bank Checking	\$ 1,928.60
Check	08/16/2006	1036	Graves Dougherty Heaton & Moody	Inv# 240169	Compass Bank Checking	\$ 1,999.60
Check	11/20/2006	1038	Graves Dougherty Heaton & Moody	Inv# 241985 Inv# Oct. 31, 2006	Compass Bank Checking	\$ 255.50
Check	12/19/2006	1041	Graves Dougherty Heaton & Moody	Inv# 242447	Compass Bank Checking	\$ 560.00
Check	02/14/2007	1043	Graves Dougherty Heaton & Moody	Inv# 244052	Compass Bank Checking	\$ 105.00
Check	02/26/2007	1049	Graves Dougherty Heaton & Moody	Inv# 247565	Compass Bank Checking	\$ 645.80
Check	07/11/2007	1051	Graves Dougherty Heaton & Moody	Inv# 248097	Compass Bank Checking	\$ 1,228.60
Check	09/20/2007	1054	Graves Dougherty Heaton & Moody	Inv# 249471	Compass Bank Checking	\$ 1,124.20
Check	01/03/2008	1059	Graves Dougherty Heaton & Moody	Inv. #252145	Compass Bank Checking	\$ 1,301.80
Check	01/22/2008	1060	Graves Dougherty Heaton & Moody	Inv. #252785	Compass Bank Checking	\$ 6,181.60
Check	06/16/2006	1018	Groundwater Services, Inc.	Inv.#6712	Compass Bank Checking	\$ 6,930.36
Check	07/18/2006	1025	Groundwater Services, Inc.	Inv.#6792	Compass Bank Checking	\$ 408.70
Check	08/16/2006	1020	LoopenRead & McGraw Attorneys	Inv.#184826	Compass Bank Checking	\$ 11,669.56
Check	08/21/2006	1022	LoopenRead & McGraw Attorneys	Inv# 186022	Compass Bank Checking	\$ 13,478.98
Bill	08/30/2006	1029	LoopenRead & McGraw Attorneys	Inv# 187417	Accounts Payable	\$ 64,600.29
Bill	07/11/2006	1027	MillerParker, Inc.	Inv# 14672	Accounts Payable	\$ 88,748.43
Bill	07/11/2006	1027	MillerParker, Inc.	Inv# 14673	Accounts Payable	\$ 2,405.85
Check	01/13/2006	1004	Pate Engineers	Inv# 0084266	Compass Bank Checking	\$ 18,611.24
Check	01/13/2006	1004	Pate Engineers	Inv# 0085146	Compass Bank Checking	\$ 4,020.00
Check	01/13/2006	1004	Pate Engineers	Inv# 0085318	Compass Bank Checking	\$ 2,430.00
Check	02/08/2006	1008	Pate Engineers	Inv# 0086950	Compass Bank Checking	\$ 559.00
Check	03/10/2006	1009	Pate Engineers	Inv# 0086930	Compass Bank Checking	\$ 2,232.38
Check	03/12/2006	1012	Pate Engineers	Inv# 87382	Compass Bank Checking	\$ 8,653.26
Check	06/15/2006	1014	Pate Engineers	Inv# 87382	Compass Bank Checking	\$ 1,917.16
Check	06/15/2006	1017	Pate Engineers	Inv# 88768	Compass Bank Checking	\$ 13,370.67
Check	06/21/2006	1021	Pate Engineers	Inv# 88041	Compass Bank Checking	\$ 12,943.28
Check	08/17/2006	1032	Pate Engineers	Inv# 90124	Compass Bank Checking	\$ 6,133.36
General Journal	07/28/2005	13869	TCEQ	TCEQ 973 Wastewater Co. Application Fee	Due to RMD & Co., Inc.	\$ 1,650.00
Check	11/15/2006	1037	TCEQ	Inv. #CWO0018381	Compass Bank Checking	\$ 400.00
Check	10/31/2007	1057	TCEQ	Inv. #CWO0021694 Permit	Compass Bank Checking	\$ 400.00
WW Discharge Permitting and Related Contracts Total						\$ 385,822.83
						\$ 2,450.00

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION