

Type	Date	Num	Name	Memo	Split	Amount
***** AMBUST & BROWN, L.L.P. *****						
Check	08/17/2006	1031	Ambust & Brown, L.L.P.	Inv #56271, July 26, 2006	Compass Bank Checking	\$ 346.50
Check	09/01/2006	1034	Ambust & Brown, L.L.P.	Inv. #56271, July 26, 2006	Compass Bank Checking	\$ 80.00
Check	11/28/2006	1039	Ambust & Brown, L.L.P.	Inv. #56889	Compass Bank Checking	\$ 70.00
		1045	New Sweden MPC, L.P.	Repayment for Ambust & Brown #55576-4	Compass Bank Checking	\$ 67.50
Check	03/01/2007			Inv. #60823-1		
Check	03/08/2007	1047	Ambust & Brown, L.L.P.		Compass Bank Checking	\$ 323.00
						\$ 887.00
***** PATE ENGINEERS *****						
Check	01/13/2006	1004	Pate Engineers	Inv# 0064265	Compass Bank Checking	\$ 10,726.40
Check	01/13/2006	1004	Pate Engineers	Inv# 0065145	Compass Bank Checking	\$ 9,272.35
Check	02/08/2006	1008	Pate Engineers	Inv# 0063949	Compass Bank Checking	\$ 3,278.09
Check	02/08/2006	1008	Pate Engineers	Inv# 0066011	Compass Bank Checking	\$ 11,337.66
			New Sweden MPC, L.P.	Reimbursement for Pate Inv #98011 paid by 9/73	Compass Bank Checking	\$ (11,337.66)
			WV Co.			
***** PATE ENGINEERS *****						
Deposit	07/18/2006			Inv# 0066934	Compass Bank Checking	\$ 418.00
Check	03/10/2006	1009	Pate Engineers	Inv# 87179	Compass Bank Checking	\$ 6,656.77
Check	03/21/2006	1012	Pate Engineers	Inv# 87942	Compass Bank Checking	\$ 1,486.22
Check	03/15/2006	1014	Pate Engineers	Inv# 88854	Compass Bank Checking	\$ 1,945.19
Check	06/15/2006	1017	Pate Engineers	Inv# 89042	Compass Bank Checking	\$ 6,084.80
Check	08/21/2006	1021	Pate Engineers	Inv# 90125	Compass Bank Checking	\$ 839.27
Check	09/17/2006	1032	Pate Engineers	Inv# 90889	Compass Bank Checking	\$ 5,568.50
Check	08/29/2006	1033	Pate Engineers	Inv# 97860	Compass Bank Checking	\$ 286.85
Check	07/20/2007	1052	Pate Engineers	Inv# 98774	Compass Bank Checking	\$ 198.72
Check	09/25/2007	1055	Pate Engineers	Inv# 98980	Compass Bank Checking	\$ 1,031.90
Check	11/20/2007	1058	Pate Engineers		Compass Bank Checking	\$ 47,790.86
						\$ 48,677.66
***** ECO RESOURCES, INC. *****						
Check	12/18/2006	1040	ECO Resources, Inc.	Inv. #960147	Compass Bank Checking	\$ 219,977.80
Check	01/09/2007	1042	ECO Resources, Inc.	Inv. #960340	Compass Bank Checking	\$ 11,046.90
Check	02/16/2007	1044	ECO Resources, Inc.	Inv. #960473	Compass Bank Checking	\$ 6,410.00
Check	03/14/2007	1046	ECO Resources, Inc.	Inv. #960587	Compass Bank Checking	\$ 3,049.30
Check	01/22/2008	1051	Pala Petroleum	Inv. #101132	Compass Bank Checking	\$ 680.13
Check	07/24/2007	1053	Travis City Transport. & Nat. Resources	Travis City Permit #06-3247	Compass Bank Checking	\$ 28.00
				WVTF Design Engineering/Site Development Total		\$ 241,790.13
***** NADA WELLS SPEARS *****						
Check	10/27/2007	1056	Nada Wells Spears	2007 prop. tax, Acct. 02-5970-0316-0000	Compass Bank Checking	\$ 48.77
						\$ 48.77
***** RHETT M. DAWSON *****						
Check	07/11/2007	1050	Rhett M. Dawson	Administrative costs	Compass Bank Checking	\$ 75,000.00
						\$ 75,000.00
***** COMPASS BANK *****						
Check	08/02/2005			Service Charge	Compass Bank Checking	\$ 95.52
Check	12/13/2005			Service Charge	Compass Bank Checking	\$ 11.02
Check	02/16/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	03/14/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	04/16/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	06/18/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	08/19/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	07/15/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	08/16/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	08/19/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	10/15/2007			Service Charge	Compass Bank Checking	\$ 3.00
Check	11/15/2007			Service Charge	Compass Bank Checking	\$ 3.00
				Miscellaneous Total		\$ 136.54
				TOTAL INVOICES		\$ 731,475.93

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JAN 27 2014
UTILITIES & SERVICES SECTION

EXHIBIT I
SPECIAL WARRANTY DEED

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS: That **RMD CONSTRUCTION, INC. d/b/a 973 WASTEWATER COMPANY**, a Texas corporation ("Grantor"), for a full valuable consideration to Grantor in hand paid by the **CITY OF PFLUGERVILLE, TEXAS**, a Texas home-rule city ("Grantee"), whose mailing address is P.O. Box 589, Pflugerville, Texas 78691, and for the further consideration of the execution of a Promissory Note in the original principal amount of One Million Seven Hundred and Fifty Thousand and no/100 Dollars (\$1,750,000.00) (the "Note"), executed by Grantee, payable to the order of Grantor, the payment of the Note being secured by the vendor's lien retained herein and being additionally secured by a Deed of Trust of even date herewith to Robin A. Melvin, Trustee, and encumbering the Property, has **GRANTED, SOLD AND CONVEYED**, and by these presents does **GRANT, SELL AND CONVEY**, unto Grantee, subject to all of the reservations, exceptions and other matters set forth or referred to herein, the following described property:

That certain tract of land in Travis County, Texas, containing approximately 10.00 acres, more or less, which is described on Exhibit A attached hereto and incorporated herein by reference, together with all improvements thereon (the "Property");

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, and Grantee's successors or assigns, forever; and, subject to all of the matters set forth or referred to herein, Grantor does hereby bind itself and its successors to **WARRANT AND FOREVER DEFEND** all and singular the Property unto Grantee, Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise; provided, however that this conveyance is made by Grantor and accepted by Grantee subject to all restrictions, covenants, conditions, rights-of-way, assessments, outstanding royalty and mineral reservations and easements, if any, affecting the above described property that are valid, existing and properly of record (the "Permitted Exceptions").

EXCEPT FOR THE SPECIAL WARRANTY OF TITLE SET FORTH ABOVE IN THIS DEED, THE PROPERTY IS CONVEYED TO GRANTEE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND IN "AS IS" CONDITION.

Executed and delivered this _____ day of _____, 2008.

[SIGNATURE PAGE TO FOLLOW]

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

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

By: _____
Rhett Dawson, President

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this _____ day of _____, 2008,
by RHETT DAWSON, President of RMD CONSTRUCTION, INC. d/b/a 973 WASTEWATER
COMPANY, a Texas corporation, on behalf of such corporation.

NOTARY PUBLIC, State of Texas

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

EXHIBIT J
BILL OF SALE AND ASSIGNMENT AGREEMENT

This Bill of Sale and Assignment (this "Agreement") is made by and between RMD CONSTRUCTION, INC. d/b/a 973 WASTEWATER COMPANY, a Texas corporation ("Assignor") and the CITY OF PFLUGERVILLE, a home-rule city located in Travis County, Texas ("Assignee").

RECITALS

A. By Special Warranty Deed of even date herewith, Assignor has conveyed to Assignee that certain tract of land in Travis County, Texas, containing approximately 10.00 acres, more or less, which is described on Exhibit A attached hereto and incorporated herein by reference, together with all improvements thereon (the "Property");

B. Assignee desires to acquire Assignor's development rights associated with the Property, all of Assignor's right, title, and interest in TPDES Permit No. WQ001462001, and all of Assignor's right, title, and interest in certain work product associated with the design of a wastewater treatment plant to be located on the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, as part of the assignment of the Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby ASSIGN and TRANSFER the following (the "Assigned Properties") to Assignee:

1. All of Assignor's right, title, and interest in TPDES Permit No. WQ001462001, issued to Assignor on July 19, 2006.
2. All of Assignor's right, title, and interest in plats, site plans, approvals, permits, and other development rights and benefits associated with the Property.
3. All of Assignor's right, title, and interest in the product of that Contract for Engineering Services between Pate Engineers, Inc. and _____ dated _____, including but not limited to all engineering studies and plans and specifications associated with the construction of a wastewater treatment plant on the Property.
3. All of Assignor's right, title and interest under that Temporary Access and Drainage Easement dated as of October 12, 2006, and recorded as Instrument No. _____ in the Official Property Records of Travis County, Texas.
4. All of Assignor's right, title and interest 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.

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UTILITIES & DISTRICTS
SECTION

5. All of Assignor's right, title and interest under that Private Utility Easement dated as of October 12, 2006, and recorded as Instrument No. 2006201494 in the Official Property Records of Travis County, Texas.

6. All of Assignor's rights and obligations under that Settlement Agreement between 973 Wastewater Company and Phillip Arellano, *et al.* dated as of June 27, 2006 relating to TPDES Permit No. WQ001462001.

Assignor warrants to Assignee that it has not previously sold or transferred Assignor's right, title and interest in and to the Assigned Properties to any person other than Assignor, and that the Assigned Properties are free and clear of all liens and encumbrances.

EXCEPT AS SET FORTH ABOVE IN THIS BILL OF SALE AND ASSIGNMENT AGREEMENT, THE ASSIGNED PROPERTIES ARE CONVEYED TO GRANTEE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND IN "AS IS" CONDITION.

EXECUTED in multiple originals and effective as of the ____ day of _____, 2008.

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

By: _____
Rhett Dawson, President

CITY:
CITY OF PFLUGERVILLE, TEXAS

By: _____
David Buesing, City Manager

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JAN 27 2014
UTILITIES & INFRASTRUCTURE
SECTION

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this ____ day of _____, 2008,
by RHETT DAWSON, President of RMD CONSTRUCTION, INC. d/b/a 973 WASTEWATER
COMPANY, a Texas corporation, on behalf of such corporation.

NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

 This instrument was acknowledged before me on this ____ day of _____, 2008,
by DAVID BUESING, City Manager of the CITY OF PFLUGERVILLE, TEXAS, a Texas
municipal corporation, on behalf of such corporation.

NOTARY PUBLIC, State of Texas

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

EXHIBIT K
ADDITIONAL REPRESENTATIONS AND WARRANTIES

Representations and Warranties by 973 Wastewater Company. If 973 Wastewater Company is a corporation or a limited liability company, 973 Wastewater Company warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of 973 Wastewater Company has been duly authorized to act for and bind 973 Wastewater Company. 973 Wastewater Company acknowledges that the agreement may be terminated and payment may be withheld if this certification is inaccurate.

Franchise Tax Certification. A corporate or limited liability company, 973 Wastewater Company certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable. 973 Wastewater Company acknowledges that the agreement may be terminated and payment may be withheld if this certification is inaccurate.

Payment of Debt or Delinquency to the Local or State Government. 973 Wastewater Company agrees that any payments owing to 973 Wastewater Company under an agreement with the City of Pflugerville may be applied directly toward any debt or delinquency that 973 Wastewater Company owes the State of Texas, Travis County, Williamson County, the City of Pflugerville or any other political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

Child Support Certification. 973 Wastewater Company hereby certifies that none of the officers of the corporation are delinquent in their court ordered child support obligations and shall acknowledge that any agreement with the city may be terminated and payment may be withheld if this certification is inaccurate.

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UTILITIES & DISTRICTS
SECTION

EXHIBIT L
PROMISSORY NOTE

Date: _____, 2008

Maker: **CITY OF PFLUGERVILLE, TEXAS, a Texas home-rule city**

Maker's Mailing Address:
P. O. Box 589
Pflugerville, Texas 78691

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

Place for Payment:
1717 West Sixth Street, Suite 260
Austin, Texas 78703

Principal
Amount: **ONE MILLION SEVEN HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$1,750,000.00)**

Maturity
Date: The second anniversary of the Addendum Effective Date, as defined in that certain First Addendum to Agreement Concerning Wastewater between Maker and Payee dated as of _____, 2008

Annual Interest Rate:
Zero percent (0%) per annum

Terms of Payment (principal and interest):

Seven Hundred and Fifty Thousand and no/100 dollars (\$750,000.00) is due no later than the fifteenth (15th) business day after the first date that fifteenth (15th) business day after the date that all three of the following events have occurred (the "Construction Date"): (i) Wilson Family Communities, Inc. ("Wilson") has signed an agreement with the City in the form attached as Exhibit A; (ii) Wilson has provided the City with the letter of credit described in Section 5 of Exhibit A; and (iii) 973 Wastewater Company has provided the City with notice that a contract has been awarded and a notice to proceed has been issued for construction of the infrastructure for the first section of sixty (60) or more lots within either New Sweden Municipal Utility District No. 1 or New Sweden Municipal Utility District No. 2.

Seven Hundred and Fifty Thousand and no/100 dollars (\$750,000.00) is due no later than the fifteenth (15th) business day after the first anniversary of the Addendum Effective

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

Date, as defined in that certain First Addendum to Agreement Concerning Wastewater between Maker and Payee dated as of _____, 2008.

Two Hundred and Fifty Thousand and no/100 dollars (\$250,000.00) is due no later than the fifteenth (15th) business day after the second anniversary of the Addendum Effective Date, as defined in that certain First Addendum to Agreement Concerning Wastewater between Maker and Payee dated as of _____, 2008.

All unpaid amounts are due by the Maturity Date.

Security for Payment:

This Note is secured by a deed of trust of even date herewith from Maker to Robin A. Melvin, Trustee, and a vendor's lien retained in a deed from Payee to Maker of even date herewith, both of which cover the following-described real property:

Being all that certain tract or parcel of land containing 10.0 acres situated in Travis County, Texas, said tract being more particularly described by metes and bounds on Exhibit B attached hereto and made a part hereof for all purposes.

Prepayment

Maker may prepay this Note in any amount at any time before the Maturity Date without penalty or premium. If the Construction Date occurs earlier than the first anniversary of the Addendum Effective Date, as defined in that certain First Addendum to Agreement Concerning Wastewater between Maker and Payee dated as of _____, 2008, and Maker pays Payee one million five hundred thousand and no/100 dollars (\$1,500,000.00) on or before the fifteenth (15th) business day after the Construction Date, then, notwithstanding anything herein to the contrary, such payment of one million five hundred thousand and no/100 dollars (\$1,500,000.00) will be deemed payment in full of all amounts due and payable under this Note.

If Maker defaults in the payment of this Note or in the performance of any obligation in any instrument securing or collateral to this Note, Payee may declare the unpaid principal balance on this Note immediately due. Maker and each surety, endorser, and guarantor waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

Maker also promises to pay reasonable attorney's fees and court and other costs if this Note is placed in the hands of an attorney to collect or enforce this Note. These expenses will become part of this Note and will be secured by any security for payment.

When the context requires, singular nouns and pronouns include the plural.

[SIGNATURE PAGE TO FOLLOW]

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UTILITIES & DISTRICTS
SECTION

CITY OF PFLUGERVILLE, TEXAS,
a Texas home-rule city

By: _____
David Buesing, City Manager

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UTILITIES & DISTRICTS
SECTION

EXHIBIT M
DEED OF TRUST

Date: _____, 2008

Grantor: **CITY OF PFLUGERVILLE, TEXAS, a Texas home-rule city**

Grantor's Mailing Address:
P. O. Box 589
Pflugerville, Texas 78691

Trustee: **ROBIN A. MELVIN**

Trustee's Mailing Address:
401 Congress Avenue, Suite 2200
Austin, Travis County, Texas 78701

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

Beneficiary's Mailing Address:
1717 West Sixth Street, Suite 260
Austin, Texas 78703

Promissory Note

Date: _____, 2008

Amount: **ONE MILLION SEVEN HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$1,750,000.00)**

Maker: **CITY OF PFLUGERVILLE, TEXAS, a Texas home-rule city**

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

Final Maturity Date: The second anniversary of the Addendum Effective Date, as defined in that certain First Addendum to Agreement Concerning Wastewater between Maker and Payee dated as of _____, 2008

Property (including any improvements):

That certain tract or parcel of land containing 10.0 acres situated in Travis County, Texas, said tract being more particularly described by metes and bounds on Exhibit A attached hereto and made a part hereof for all purposes.

Prior Lien(s) (including recording information): None.

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JAN 27 2014
UTILITIES & DISTRICTS
SECTION

For value received and to secure payment of the Note, Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property. If Grantor performs all the covenants and pays the Note according to its terms, this Deed of Trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

Grantor's Obligations

Grantor agrees to:

1. keep the Property in good repair and condition;
2. preserve the lien's priority as it is established in this Deed of Trust; and
3. create and maintain in existence during the term of this Deed of Trust, 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.

Beneficiary's Rights

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand at the place where the Note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this Deed of Trust.
3. If Grantor defaults on the Note or fails to perform any of Grantor's obligations, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
 - (a) declare the unpaid principal balance on the Note immediately due;
 - (b) request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
 - (c) purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

Trustee's Duties

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. sell and convey all or part of the Property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. from the proceeds of the sale, pay, in this order:

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JAN 27 2014
UTILITIES & DISCOUNTS
SECTION

- (a) expenses of foreclosure, including a commission to Trustee of five percent (5%) of the bid;
- (b) to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
- (c) any amounts required by law to be paid before payment to Grantor; and
- (d) to Grantor, any balance.

General Provisions

1. If any of the Property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any Trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
5. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the Note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. When the context requires, singular nouns and pronouns include the plural.
8. The term note includes all sums secured by this Deed of Trust.
9. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
10. If Grantor and Maker are not the same person, the term Grantor shall include Maker.
11. Grantor represents that this Deed of Trust and the Note are given for the following purposes:

The indebtedness, the payment of which is hereby secured, is in part payment of the purchase price of the Property, and is also secured by a vendor's lien thereon retained in a special warranty deed with vendor's lien of even date herewith to Grantor, and this Deed of Trust is given as additional security for the payment of said indebtedness.
12. Upon the sale, transfer or other disposition of the Property or any part thereof or interest therein, or upon leasing of the Property, without Beneficiary's prior written approval, which may be withheld for any reason or no reason at all. Beneficiary may, at Beneficiary's option, declare the entire amount of the indebtedness secured by this Deed of Trust to be immediately due and payable.

[SIGNATURE PAGE TO FOLLOW]

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JAN 27 2014

UTILITIES & DISTRICTS
SECTION

GRANTOR:

CITY OF PFLUGERVILLE, TEXAS,
a Texas home-rule city

By: _____
David Buesing, City Manager

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this ____ day of _____, 2008,
by DAVID BUESING, City Manager of the CITY OF PFLUGERVILLE, TEXAS, a Texas
municipal corporation, on behalf of such corporation.

NOTARY PUBLIC, State of Texas

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UTILITIES & DISTRICTS
SECTION

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
FOR WASTEWATER PLANT OPERATIONS
(Wilke Lane)**

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF TRAVIS §

This First Amendment to Professional Services Agreement for Wastewater Plant Operations (Wilke Lane) ("First Amendment") is made and entered into by and between The City of Pflugerville, a Texas home-rule municipality, ("City") and Wilke Lane Utility Company, a Texas corporation (the "Company").

WHEREAS, the District and the Company previously entered into a professional services agreement effective December 1, 2002, entitled "Professional Services Agreement for Wastewater Plant Operations (Wilke Lane)" (the "Agreement"), pursuant to which the City agreed to operate the Company's wastewater plant for a fee; and

WHEREAS, the parties desire to allow the City to set the rates charged for service to its Customers and to clarify the method of calculating the fee due to the Company to reflect their intentions.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual undertakings herein contained, the parties agree as follows:

1. Amendment. Section II.A. of the Agreement is amended and replaced in its entirety as follows:

A. The City will bill the Customers, i.e. Active Connections, for wastewater treatment services at a rate set by the City in its sole discretion.

2. Amendment. Section II.B of the Agreement is amended and replaced in its entirety as follows:

B. The City will remit to Wilke Lane on a monthly basis an amount equal to the Monthly ~~Charges~~ ^{Rate} due to the Company from the City under that certain "Agreement for Providing Wholesale Wastewater Service," effective September 20, 1995, less \$10.00 per month per Active Connection for Wholesale Services provided to the City, which net amount is referred to herein as the "Wilke Lane Monthly Payment".

3. Defined Terms. All terms delineated with initial capital letters in this First Amendment that are defined in the Agreement have the same meanings in this First Amendment as in the Agreement, except that the term District as defined in the Agreement is now defined to mean "City". Other terms have the meanings commonly ascribed to them.

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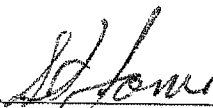
UTILITIES & DISTRICTS
SECTION

163153_1 Wilke Lane Agreement 1st amendment

4. Effect of Amendment. Except as specifically provided in this First Amendment, the terms of the Agreement continue to govern the rights and obligations of the parties, and all terms of the Agreement, as amended by this First Amendment, remain in full force and effect. If there is any conflict or inconsistency between this First Amendment and the Agreement, this First Amendment will control and modify the Agreement

EXECUTED as of the 26 day of June, 2003

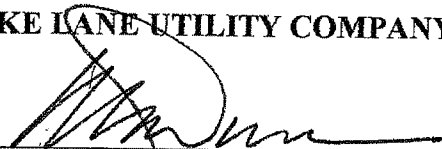
CITY OF PFLUGERVILLE

By: 
Steve Jones, City Manager

ATTEST:


Karen Thompson, City Secretary

WILKE LANE UTILITY COMPANY

By: 
Kenneth W. Durr, President

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UTILITIES & DISTRICTS
SECTION

LETTER AGREEMENT

November 11, 2005

Stephen and Frankie Sue Jones

RE: *City of Pflugerville: Construction of Individual Wastewater Service Line and Connections for: 1.472 Acres at 18700 #8 Weiss Lane and 7.198 acres at 18710 Weiss Lane*

Dear Mr. and Mrs. Jones:

As you know, pursuant to that certain Wastewater Utility and Access Easement Agreement attached hereto as Exhibit "A", the City of Pflugerville, Texas ("City") entered upon your property for purposes relating to the construction of a wastewater line along Weiss Lane in the City (the "Wastewater Line"). As you are also aware, in order for the above-referenced properties (the "Properties") to benefit from the Wastewater Line, construction and installation of a new wastewater service line and connections for the two Properties and the properties owned by Dennis Graf and Karolyn Graf, as shown on the attached sketch, will be necessary.

The purpose of this letter is to express in writing the terms of an agreement between you ("Owner") and City in connection with the construction and installation of the Service Line and the connections to the Wastewater Line (the "Project"), as follows:

A. City Obligations.

Subject to satisfaction by the Owner of the Owner Obligations set forth in Section B below, and subject to City's review and approval of the construction plans and cost estimate, City hereby agrees to (i) compensate owners Dennis and Karolyn Graf and Stephen and Frankie Jones in the amount of \$41,675.00 for costs of construction of the Project, (ii) except as otherwise provided in Section B below, waive all tap fees, impact fees, and inspection fees in connection with the Project, (iii) upon submission to City of proper documentation, reimburse Owner in the amount of \$7,280 for purchase and installation of the fence described on Exhibit "B" attached hereto, (iv) within two weeks of Owner's request, re-grade and reseed with native grass the area of land near the creek, and re-grade, smooth and pack the existing gravel fill to restore proper drainage in the area in which drainage was impaired as a result of construction of the Wastewater Line. Owner understands and acknowledges that City does not make any representations or warranties respecting the restoration work described in subsection (iv) above and that City does not intend to and will not be obligated to undertake such restoration work more than one time under this agreement. In order to satisfy its obligations under (i) above, City shall issue a joint check payable to Owner and to Dennis Graf and Karolyn Graf for the total amount of the Project.

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B. Owner Obligations.

29
A.D.J.
In consideration for the City's agreement to fulfill the City Obligations set forth in Section A above, Owner hereby agrees to (i) provide the City with a cost estimate for the Project, (ii) complete the Project in compliance with all applicable State and local laws, ordinances and regulations, by no later than February 1, 2006, with respect to the 7.198 Acres at 18710 Weiss Lane (iii) allow City to inspect the Project and issue approval prior to the covering of the Service Line and connections, (iv) pay City's established retail rates for wastewater service, (v) waive all claims for damages, known or unknown, in connection with the construction of the Wastewater Line. Owner further agrees that the Service Line will be the property of Owner and that Owner will be solely responsible for the operation, repair and maintenance of the Service Line and related facilities. Upon completion of the project, City shall be relieved of its obligation for the addresses listed above.

OWNER UNDERSTANDS AND ACKNOWLEDGES THAT NEITHER THIS AGREEMENT NOR THE CITY'S OBLIGATIONS SET FORTH IN SECTION A ABOVE ARE INTENDED TO BE, NOR SHOULD THEY BE CONSTRUED AS, AN ADMISSION OF GUILT OR RESPONSIBILITY FOR ANY DAMAGES HAVING ALLEGEDLY RESULTED FROM ACTIVITIES RELATING TO CITY'S CONSTRUCTION OF THE WASTEWATER LINE.

If you are in agreement with the terms contained in this letter, please execute both of the duplicate originals of this letter agreement in the space provided below, and return one fully executed original to the City.

Sincerely,

CITY OF PFLUGERVILLE

By: David Buesing
David Buesing, City Manager

AGREED AND ACCEPTED:

By: Stephen M. Jones
Stephen Jones

By: Frankie Sue Jones
Frankie Sue Jones

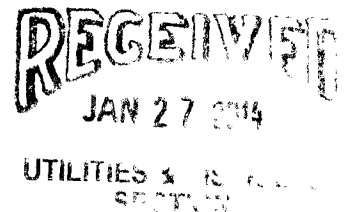
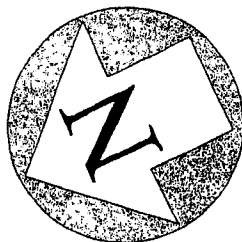


EXHIBIT "A"

Wastewater Utility and Access Easement Agreement

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100' 50' 0 100'



SCALE: 1" = 100'

LEGEND

PRELIMINARY PLAIN BOUNDARY

ADJOINING PROPEI

**PROPOSED 10' PE
& BICYCLE TRAIL**

**PRIVATE COMMON
GREENSPACE**

DEDICATED PARKL

EXISTING POND

PROPOSED SIDEWALK

NEIGHBORHOOD
MAILBOX UNIT

WASTEWATER EAS

DRAINAGE EASEM

Existing Wastewater Mainline
NOTES: with 8" stub-out

NOTES:

1. ALL SIDEWALKS ARE 4' UNLI
OTHERWISE NOTED.

2. ALL RETURN RADII ARE 15' UNLESS OTHERWISE NOTED.

STEPHEN M. JONES AND
FRANKIE SUE JONES
(8 67 ACRES)
VOLUME 13094, PAGE 225
R.P.R.T.C.T.

Connect Proposed
6" SDR 26 to Existing
8" stub —

Connect To Existing Structure (Typical)
(with Cleanant

KAROLYN GRAF
AND DENNIS GRAF
(0.722 ACRES)
DOCUMENT NO. 2002118
/ O.P.R.T.C.T.

STEPHEN M. JONES AND
FRANKIE SUE JONES
(1.472 ACRES)
DOCUMENT NO. 2002014705
OFFICE

KAROLYN GRAF
AND DENNIS GRAF
(2.20 ACRES)
VOLUME 5251, PAGE 363
D.R.T.C.T.

KAROLYN GRAF
AND DENNIS GRAF
(9.198 ACRES)
VOLUME 13049, PAGE 1
R.P.R.T.C.T.

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(WIDTH VARIES)

Cleanout (Typical)

BLOCK N

EXHIBIT "B"

The fence shall be a privacy fence approximately 500 feet in length and constructed of wood pickets no more than 6 feet in height. The wood pickets shall be installed facing Weiss Lane and the private driveway running along the south side of the property, such that the cross-bars and posts supporting the fence are concealed from view.

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ESTIMATE _____ CONTRACT _____

1813 Maple Vista
Pflugerville, TX 78660

512-670-9531

Date

ML #36851

10-28-05

PRESENTED TO

Steve Jones
18710 Weiss Ln.
Pflugerville, Tx
78660

512-990-9757/512-468-6740

JOB ADDRESS

Customer Fax

Customer Phone

Customer Contact

WORK AUTHORIZATION

I the undersigned, am owner / authorized / tenant of the premises at which the work mentioned here in is to be done. I hereby authorize you to perform said tasks and to use such materials as you deem advisable. I agree to pay according to the written and signed contract described here in. If my check is returned for NSF, I could be liable for a return check fee of not less than \$15.00 and not more than \$75.00, plus the face value of the check and court costs. All work is to be done in compliance with the

TEXAS STATE BOARD OF PLUMBING EXAMINERS, 929 E. 41st ST. PO BOX 4200 AUSTIN TX. 78765 (512)458-2145. I have read and agree to all terms and conditions set forth in this estimate/contract and mold release/

Notice to Owner(see attached) as required by, Residential Construction Liability Act, Texas Property Code 27.007.

Signed _____

TERMS OF AGREEMENT

- 1.All water and pressure test will be done 24 hours before inspection, and only after inspection is called in.
- 2.Test will only be held for 48 hours. After 48 hours, test will be terminated, and re-pressuring or re-filling will be an additional charge of 2.0 hrs.@ \$60.00 per hr.
- 3.Any changes in framing or deviations from original prints must be brought to our attention, additional charges may or may not apply.
- 4.New construction jobs are paid in phases. Due to the material cost of each phase, the pay schedule is as follows:
Rough 40%
Top out 45%
Set out 15%
- 5.All fixtures or material provided by customer must be readily available to install when needed. Customer may not withhold payment for delays due to other crafts or due to customer not providing material/fixtures when needed.
- 6.Any changes in scheduling by customer require 24 hr. notice. If PDQ Plumbing is not notified before arriving to job site, a trip charge of \$85 will be assessed to original contract.
- 7.If a trip is made by PDQ Plumbing to make a repair for damaged pipe/material due to other contractors, the cost of that repair is to be made in full after repair is complete, and no later than the next business day.
- 8.This estimate is only for work described herein. Any modifications or changes will require "change order" forms and may change price of original estimate.
- 9.All estimates are for stubbing sewer line 3 ft. outside of home or building. Yard line for remainder of sewer pipe not included in estimate unless otherwise stated.
- 10.PDQ Plumbing is not responsible for loss of vegetation on any plumbing repairs outside of home or building.
11. All material used are standard stock material unless otherwise specified. If an estimate is given for setting fixtures, the quote will be given for contractors grade only.Customer must specify if custom fixtures are being used.
12. A lien may be placed on this property for non-payment.
- 13.All work to be performed by PDQ Plumbing only. Anyone performing plumbing tasks under the license of PDQ Plumbing will be prosecuted, warranty will be void, and contract will be terminated and subject to be paid in full.

NOTE: Payment for each phase is due on completion, not upon passing of inspection (unless otherwise stated). This is required due to frequent and extended delays arising from other crafts, contractors, or customers, and in some circumstances where cities may require an all in one inspection for all contractors (plumbing, electrical, mechanical, framing, ect.). Customer may withhold a maximum of 10% from each phase should any correction notices be issued. That 10% will be paid in full after passing of inspection.

BY SIGNING WORK AUTHORIZATION, CUSTOMER UNDERSTANDS AND AGREES TO ALL TERMS LISTED HEREIN.

Additional terms

Item	Description	Quantity	Total
Plumbing	Install approximately 610 ft. of 4" sch 40 pvc for Daycare, Graffs, Cummings, and Jones homes for city sewer tie in. Install approximately 700 ft. of 6" SR 26 on main run and tie into city tap at 12 ft. deep. Bed 6" pipe in 3/8 gravel bedding material Bed 4" pipe in fill sand Saw cut concrete/asphalt at necessary areas and repair Backfill and pack Percentage down to begin job at time of material and equipment delivery to be agreed on by both parties		41,675.00

Fax #

670-9531
~~512-990-9757~~

E-mail

pdqplumbing6@aol.com

Web Site

www.pdqplumbing.com

Total

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NPWIS CONSTRUCTION AND PARTICIPATION AGREEMENT
(KM Kelly, Ltd.)

THIS NPWIS CONSTRUCTION AND PARTICIPATION AGREEMENT (this "Agreement") is made effective Aug 30, 2004, by and among the City of Pflugerville, Texas (the "City"), Rowe Lane Development, Ltd., a Texas limited partnership ("Rowe Lane"), and KM Kelly Lane, Ltd., a Texas limited partnership ("KM"). This Agreement has been authorized by a resolution of the City Council of the City.

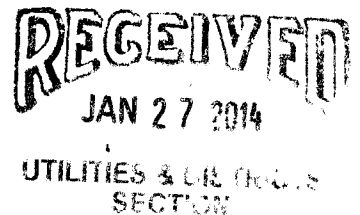
RECITALS

The City has acquired Kelly Lane Utility Company's ("Kelly Lane") wastewater treatment plant (the "Kelly Lane Plant") and has an option to acquire the related facilities and certificate of convenience and necessity in the future (the "Kelly Lane Collection System").

The City's acquisition of the Kelly Lane Plant will allow the City to provide wholesale wastewater service to land within the Kelly Lane Collection System and to decommission the Kelly Lane Plant after constructing gravity mains, a force main, and a series of lift stations (the "North Pflugerville Wastewater Interceptor System" or "NPWIS") to transport wastewater to the City's central wastewater plant.

The City has determined that it will be beneficial to the City to construct and operate the NPWIS in cooperation with KM, Rowe Lane and various other parties.

KM and Rowe Lane have determined that it will be beneficial to them both to assist the City in the construction of the NPWIS in order to improve wastewater service for current and future development in the area and to reduce long term operating costs.



The City is willing to provide wholesale wastewater service within one or more districts authorized under Article 16, Section 59 of the Texas Constitution that will contain land contemplated to be owned by KM (referred to collectively as the "Districts").

The City is willing to execute an agreement (the "Consent") substantially in the form of the Comprehensive Development and Consent Agreement attached hereto as Exhibit 2 with KM and other parties to consent to the creation of the Districts. Attached hereto as Exhibit 1 is a description and map of the land (the "District Property") that will be included within the Districts.

KM also will own an approximately forty-acre tract of land, which may be used for single family development (but may be used for other purposes) (the "South Tract"), which is located as shown on Exhibit 3 attached hereto and two tracts of land comprising approximately twenty acres of land, which will be used for commercial development (the "Corner Tracts"). The South Tract will not be located in the Districts. The Corner Tracts initially will be located in the Districts but will be excluded as provided in Section 2.3 of the Consent. KM has asked the City to provide wholesale wastewater out of district service to the Corner Tracts (once so excluded) and the South Tract, and the City has agreed to do so, subject to obtaining all required consents and approvals to the provision of out of district service. The South Tract and the District Property sometimes are referred to collectively as the "KM Property".

NOW THEREFORE, the City and KM and Rowe Lane agree as follows:

1. Construction of NPWIS. With the financial participation of KM and Rowe Lane, as set forth in this Agreement (and, as to Rowe Lane, in a separate agreement, the "Rowe Lane Agreement"), the City shall construct Segments C, D, E, and F of the NPWIS

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(the "Project") as described in Exhibit 4, and the City shall construct the facilities necessary to transport wastewater from the termination of Segment F at the proposed Weiss Lane Lift Station (identified as the proposed South Service Area Lift Station on Exhibit 4) to the City's central wastewater treatment plant (the "South Portion of the NPWIS").

2. Completion Dates. The City shall complete the Project and the South Portion of the NPWIS by the later to occur of: (i) twelve (12) months from the effective date of this Agreement, or (ii) twelve (12) months from the date KM and Rowe Lane grant, or cause to be granted by the appropriate party, wastewater easements to the City over the KM Property and/or over property owned or controlled by Rowe Lane or its affiliates, necessary for the construction of Segments C, D, E, and F of the NPWIS and the South Portion of the NPWIS. Said easements shall be in a form similar to the attached Exhibit 5.

3. Consent; Applications. Simultaneously with the execution of this Agreement, the City shall execute the Consent substantially in the form of Exhibit 2 to consent to the creation of the Districts and shall submit all necessary applications to provide out of district service to the Corner Tracts (when excluded) and the South Tract.

4. Execution of Agreements as a Condition to Obligations. All obligations of KM under this Agreement shall be subject to execution of the attached Consent by all parties thereto.

5. Exclusion of Commercial Areas. Unless the City and KM otherwise agree, the Districts created pursuant to the Consent shall not include any commercial or retail areas (however, the City agrees that townhomes, cluster housing, condominiums and multi-family developments are not "commercial or retail" for purposes of this Section), and, before a bond authorization election is held by the District, KM shall request deannexation of and the

Districts shall deannex from the Districts the Corner Tracts and any other areas identified as commercial or retail development areas; provided, however, that once bonds have been issued to pay for improvements within any portion of the KM Property, such portion of the KM Property, other than the Corner Tracts and any other areas identified as commercial or retail development areas before a bond authorization election is held, may not thereafter be de-annexed.

6. Wholesale Wastewater Service to the Districts. Exhibit 6 attached hereto is a preliminary cost allocation of the cost of the Project. KM is allocated the proportion of the cost of the Project which is set forth on Exhibit 6, but in no event shall KM's allocated share exceed \$535,000.00. KM's payment of the share of the cost of the Project shall be made solely out of the Net Proceeds (as defined in Section 10 below) from each bond offering by the Districts, and the receipt of the Net Proceeds by KM from the Districts is a condition precedent to any obligation to pay said allocated share. In exchange for the contributions by KM, but subject to the payment of the LUE fees to Kelly Lane or impact fees to the City (as applicable), as more fully described in Section 8 below), the City shall provide wholesale wastewater service to fully serve the KM Property. The City agrees that it shall provide at least 1,700 LUEs of wastewater service to the KM Property, but the City shall not be obligated to provide more than 2,200 LUEs of wastewater service to the KM Property.

7. Segment D Construction. Rowe Lane shall pay the City \$288,000.00 immediately upon completion of Segment D as determined by the City. Such payment shall also satisfy Rowe Lane's obligations under the certain "NPWIS Construction and Participation Agreement" between the City and Rowe Lane and Harris executed on the same date as this Agreement.

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8. Wastewater Capacity Fees. After the date of this Agreement, KM and the Districts shall pay, for each wastewater connection within the KM Property, either (a) the City's then current impact fee for wastewater, if applicable, or (b) a LUE fee under the City's wholesale contract with Kelly Lane that is equal to the City's current impact fee for wastewater. Because of KM's payments under Section 6 above, KM will not be required to pay the additional \$1,000.00 per LUE required under the City's wholesale contract with Kelly Lane. The LUE fee or impact fee, as applicable, shall be paid at the time of final plat approval. As of the date of execution of this Agreement, the City's current impact fee for wastewater is \$1,362.00 per LUE.

9. Wholesale Water Supply to Districts and Other Tracts. KM will request wholesale water supply service from Manville Water Supply Corporation ("Manville") for the KM Property. If Manville does not execute a contract for wholesale water service for whatever reason, then the City shall provide wholesale water service to the KM Property by means of the City water supply system, provided that the following conditions shall apply:

- (i) Manville releases its certificate of convenience and necessity for the area to be served and agrees that the City may provide wholesale service;
- (ii) Any required extension of the City's water supply system shall be completed with no expense to the City;
- (iii) The City's proposed water treatment plant has become operational, which is expected to occur in the summer of 2005.

10. Infrastructure Fee. As consideration for the City's public infrastructure to serve the KM Property, KM, jointly with any other recipient of bond reimbursements from the Districts, shall pay the City a one-time infrastructure fee for each wastewater connection.

in the District Property, in an amount equivalent to \$1,133.00 per LUE for single family residential uses or per service unit for non-single family residential uses. The service units for non-single family residential uses in the Districts shall be determined according to Section 152.18 of the Pflugerville City Code, as it may be amended from time to time (the "Infrastructure Fee"). KM shall pay the Infrastructure Fee in installments, with each payment being made solely out of the Net Proceeds (defined below) of bond offerings by the Districts. KM's receipt of the Net Proceeds of each bond offering by a District is a condition precedent to the obligation to pay to the City the portion of the Installment Fee attributable to the particular bond offering. The amount of the Infrastructure Fee which KM shall pay from the Net Proceeds of each bond offering shall be calculated by multiplying (i) \$1,133.00, by (ii) the number of residences and non-single family service units within the applicable District that (a) are connected to the water or wastewater facilities that the proceeds of the particular bond offering were designed to reimburse ("Covered Facilities") as of thirty (30) days prior to the date the bond offering is proposed to be submitted to the public, and (b) have not previously been included for purposes of calculating an installment of the Infrastructure Fee (i.e., no connection shall be counted more than once). Notwithstanding the preceding sentence, (1) a residence that is connected to Covered Facilities after the installment of the Infrastructure Fee attributable to the Covered Facilities was calculated shall be included with the residences described in phrase (ii) of the preceding sentence for purposes of determining the installment of the Infrastructure Fee which is next calculated after the date of such connection, and (2) the final installment of the Infrastructure Fee paid in any District shall include all residences within that District that were not previously included in the calculation of an Infrastructure Fee installment. The

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Proceeds" means the actual amount paid, reimbursed, refunded, or funded out of bond proceeds to KM for amounts that are eligible for reimbursement under the rules of the Texas Commission on Environmental Quality, but does not include (1) the costs of issuance attributable to each bond issue such as, but not limited to, bond counsel fees, financial advisors fees, printing costs, engineering fees, and audit fees; (2) the funds set aside to prepay the interest on the bond issue until the assessed value of the district is adequate to generate sufficient tax revenues to pay the debt service on the bonds; and (3) proceeds used to repay the costs paid directly by KM or other parties to create the issuing district including but not limited to legal fees, engineering fees, the cost of market studies, and the cost of land planning that are reimbursed out of a bond issue. The Infrastructure Fee due with respect to any District shall be paid only from Net Proceeds received by KM from such District. KM's liability for payment of the Infrastructure Fee shall be reduced by all amounts expended by KM on constructing improvements to Kelly Lane, which amounts shall be credited against the first installment(s) of the Infrastructure Fee due hereunder, provided that such improvements must be constructed in accordance with plans and specifications reviewed and approved by the City in its sole discretion, before construction begins. Such plans and specifications must comply with all City requirements. Acceptance of improvements by the City shall constitute the City's confirmation that the plans and specifications for the improvements were acceptable to the City and complied with City requirements, and that the improvements, as built, comply with the City's requirements.

11. No Other Charges or Obligations. This Agreement contains all charges and obligations that the City may impose on KM and the KM Property for obtaining wholesale wastewater treatment and transmission capacity for wastewater originating within KM.

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Property. Notwithstanding the estimates for the cost of construction of the NPWIS, the City shall bear any cost overruns for the portions of the NPWIS to be constructed by the City without further contribution from the other parties.

12. Permits and Approvals. The City shall obtain all permits and approvals necessary to provide wholesale wastewater service to the KM Property, including any consent of a holder of a certificate of convenience and necessity that may be necessary for the Districts to provide retail wastewater service within the Districts, and to provide out of district service to the Corner Tracts (when excluded) and to the South Tract. KM agrees to cause the Districts to calculate rates for retail wastewater service to the Corner Tracts and the South Tracts on the same basis as the Districts calculate rates for retail wastewater service within the Districts, but the City agrees that the Districts may assess connection, capital recovery or other fees against the Corner Tracts and the South Tracts so as to recover the Districts' cost in constructing the facilities to serve those Tracts. KM will assist the City in protesting any application for a certificate of convenience and necessity for retail wastewater service concerning areas within the Districts or the out of service request that is filed by any party other than the City or the applicable District.

13. Force Majeure. In the event any party is rendered unable, wholly or in part, by force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other party as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so

caused as to the extent provided, but for no longer period. Such cause shall as far as possible be remedied with all reasonable dispatch. The term "force majeure" as used herein, shall include, but not be limited to, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests, and restraints of governments and people, regulatory delay, explosions, breakage or damage to machinery or pipelines and any other inability of either party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and care such party could not have avoided.

14. Material Breach. Except as expressly provided elsewhere in this Agreement, if a party to this Agreement commits a material breach of this Agreement, the other parties hereto may exercise all remedies at law or in equity including enforcement of the provisions violated; provided, however, that no such relief may be sought until written notice has been given to the defaulting party of such breach and a reasonable opportunity is given to the defaulting party to cure the breach, which in no event shall be less than ninety (90) days from the date of the notice. It is expressly understood and agreed by the parties that certain approvals and authorizations from non-parties may be required to carry out or fulfill some of the obligations contained herein. Any delay in a party's ability to fulfill any obligations herein which results from such party being unable to timely obtain such authorizations shall not constitute a material breach. The parties specifically agree that in case of a material breach of this Agreement, the non-defaulting party shall have the equitable right of specific performance in addition to any other legal or equitable remedies

available. A party shall not be liable for any special, indirect, incidental or consequential damages of any nature, including without limitation, loss of profits or revenue. Notwithstanding the foregoing, Rowe Lane's breach of its obligations under Section 7 above shall not constitute a material breach of this Agreement (but shall constitute a material breach of the Rowe Lane Agreement).

15. Address and Notice.

(a) Manner of Giving Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by any party to the other, must be in writing and may be given or be served by depositing the same in the United States mail, postage prepaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to the representative of the party identified in Section 15(b). Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) business days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified.

(b) Addresses. For the purposes of notice, the addresses and representatives of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:	City of Pflugerville
	P.O. Box 589
	Pflugerville, Texas 78660
	Attention: City Manager

If to KM, to:

KM Kelly Lane, Ltd.
1011 N. Lamar Blvd.
Austin, Texas 78703
Attn: Blake Magee

If to Rowe Lane, to:

Rowe Lane Development, Ltd.
P.O. Box 1190
Pflugerville, Texas 78691-1190 (mail only)
3719 Rowe Lane
Pflugerville, Texas 78660 (delivery only)
Attn: Robert M. Tiemann or Carrie Parker Tiemann

The parties shall have the right from time to time and at any time to change their respective addresses and representatives, and each shall have the right to specify as its address and representative any other address or representative, provided at least five (5) business days' written notice is given of such new address or representative to the other parties.

16. No Additional Waiver Implied. The failure of any party hereto to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Agreement, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition by any other party hereto, but the obligation of such other party with respect to such future performance shall continue in full force and effect.

17. Modification. Except as otherwise provided in this Agreement, this Agreement shall be subject to change or modification only with the mutual written consent of the parties hereto or their successors and assigns. The City and KM may amend this Agreement without the consent of Rowe Lane provided that such amendment does not adversely affect the economic interest of Rowe Lane or change the rights or obligations of Rowe Lane under this Agreement. The City and Rowe Lane may amend this Agreement

without the consent of KM provided that such amendment does not adversely affect the economic interest of KM or change the rights or obligations of KM under this Agreement. In no event shall Rowe Lane's consent be required, or deemed required, to any amendment of the Consent.

18. Captions. Any captions appearing at the first of each numbered section in this Agreement are inserted and included solely for convenience and shall never be considered or given any effect in construing this Agreement, or any provision hereof, or in connection with the duties, obligations or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

19. Severability.

(a) The provisions of this Agreement are severable and, in the event any word, phrase, clause, sentence, paragraph, section or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held or determined to be invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect and the application thereof to any other person or circumstance shall not be affected thereby, provided the overall intent and purpose of this Agreement can still be accomplished.

(b) In the event that the Texas Commission on Environmental Quality or any court of competent jurisdiction determines that any provision of this Agreement exceeds the authority set forth by the laws of the State of Texas, the City and KM agree to immediately amend this Agreement to conform to such ruling or decision, and maintain the original intent and purpose to the extent possible.

20. Merger. This Agreement and the Consents embody the entire agreement among the parties hereto on the subjects covered herein and there are no prior effective representations, warranties or agreements between the parties on the subjects covered herein.

21. Construction of Agreement. The parties agree that this Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement.

22. Time of Essence. Time is of the essence in the performance of all rights, duties, and obligations under this Agreement.

23. Venue. Venue for any action under this Agreement shall lie in Travis County, Texas.

24. Benefits of Agreement. This Agreement is for the benefit of the parties hereto, their successors and assigns, and shall not be construed to confer any benefit on any other individual or entity not a party to this Agreement.

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

26. Dispute Resolution. Any controversy or claim arising out of or relating to Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

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27. Current Owners. The parties acknowledge that KM currently has the right to acquire the KM Property but does not own the KM Property as of the execution of this Agreement. This Agreement is being executed by **Ronny Rinderknecht, Lonny Rinderknecht, Becky Krueger, Janie L. Freeborn and George H. Freeborn, Trustees of the Freeborn Family Living Trust dated November 15, 1994, George H. Freeborn, Jr., Jan Barron, Heidi Freeborn, Kathy Freeborn, W.A. Rinderknecht, Jeff Rinderknecht, Mike Rinderknecht, and Ricky Rinderknecht** ("Current Owners") to evidence their consent to this Agreement, and their agreement to abide by the terms hereof.

28. Counterpart Signatures. This Agreement may be executed in a number of identical counterparts which, taken together, collectively shall constitute one (1) agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(remainder of page intentionally left blank; next page is signature page)

EXECUTED in multiple copies, each of which shall constitute an original, to be effective as of the date first above written; provided, however, this Agreement shall not be effective until it has been executed by all of the Current Owners and the parties hereto.

City of Pflugerville, Texas

By: David Bussing
Name: David Bussing
Title: City Manager

KM Kelly Lane Ltd., a Texas limited partnership

By: KM Kelly Lane GP, Inc., a Texas corporation
General Partner

By: Blake J. Magee
Blake J. Magee, President

Rowe Lane Development, Ltd.

By: Tiemann Land and Cattle Development, Inc.,
its general partner

By: Robert M. Tiemann
Robert M. Tiemann, President

Consent of Current Owners

Current Owners are joining in this Agreement to evidence their consent hereto and their agreement to be bound by the provisions hereof.

Ronny Rinderknecht
Ronny Rinderknecht

NPWIS Construction and
Participation Agreement
Southern Segment of North Portion
#1-110403
177023-7 07/02/2004

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Lonny Rinderknecht
Lonny Rinderknecht

BK Becky L. Krueger
Becky Krueger-Krueger

Janie L. Freeborn
Janie L. Freeborn, Trustee, under the Freeborn
Family Living Trust dated November 15, 1994, as
amended

George H. Freeborn
George H. Freeborn, Trustee, under the Freeborn
Family Living Trust dated November 15, 1994, as
amended

George H. Freeborn, Jr.
George H. Freeborn, Jr.

Jan M. Barron
Jan Barron

Heidi Freeborn
Heidi Freeborn

Kathy Freeborn
Kathy Freeborn

W.A. Rinderknecht
W.A. Rinderknecht

Jeff Rinderknecht
Jeff Rinderknecht

Mike Rinderknecht
Mike Rinderknecht

Ricky Rinderknecht
Ricky Rinderknecht

- Exhibit 1 - Descriptions and Maps of the Land to be included in the Districts
- Exhibit 2 - Comprehensive Development and Consent Agreement
- Exhibit 3 - Description and Map of the Land to be served with out of District service
- Exhibit 4 - Map of NPWIS
- Exhibit 5 - Wastewater Easements
- Exhibit 6 - Preliminary Cost Allocation

NPWIS Construction and
Participation Agreement
Southern Segment of North Portion
#1-110403
177023-7 07/02/2004

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EXHIBIT 1
TO
NPWIS CONSTRUCTION AND PARTICIPATION AGREEMENT

FIELD NOTES

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DATE: MAY 14, 2004
PAGE: 2 OF 3

TRACT I - 540.30 ACRES

All that certain tract or parcel of land in Travis County, Texas, out of the Philip Golden Survey No. 17, Abstract No. 328 and the Edward Flint Survey No. 11, Abstract No. 277 and being all that tract described as 200.00 acres in a Deed granted to Doris H. Rinderknecht, et al, dated July 9, 1996, and recorded in Volume 12839, Page 449, Real Property Records Travis County, Texas, all that tract described as "...45 acre tract..." in a Warranty Deed granted to Ronny Rinderknecht, et al, dated September 26, 1997, and recorded in Volume 13093, Page 49, of said real property records, all of that tract described as "...45 acre tract..." in a Warranty Deed granted to Jeff Rinderknecht, et al, dated September 26, 1997, and recorded in Volume 13093, Page 56, of said real property records, all that tract described as "...60 acre tract..." in a Warranty Deed granted to Jan Barron, et al, dated September 26, 1997, and recorded in Volume 13093, Page 42, of said real property records, and all that tract described as 190.461 acres in a General Warranty Deed granted to the Freeborn Family Living Trust, dated October 16, 2002, and recorded as Document No. 2003043266, Official Public Records Travis County, Texas, and further described by metes and bounds as follows:

BEGINNING at a 1-1/4" O.D. iron pipe found in the north margin of Kelly Lane for the occupied southwest corner of said Doris Rinderknecht tract and the southeast corner of that tract described as 72.51 acres in a Correction General Warranty Deed granted to RH of Texas Limited Partnership, a Maryland Limited Partnership, dated November 30, 2000, and recorded as Document No. 2001003791, of said official public records, for the southwest corner of this tract;

THENCE: along the west line of said Doris Rinderknecht tract and this tract in the following six (6) courses,

1. N 27°28'14" E with the east line of said RH of Texas Limited Partnership tract, at 572.92 feet passing a 60d nail found and called, in all 1083.76 feet to a 1/2" iron pin found,
2. N 27°16'22"E, at 402.69 feet passing a 1/2" iron pin found for the southeast corner of Fairways of Blackhawk, Phase IV, a subdivision recorded as Document No. 200200058, Plat Records of Travis County, Texas, and continuing with the east line of said Fairways of Blackhawk, Phase IV, in all 482.55 feet to a 1/2" iron pin found,
3. N 27°16'22" E 79.60 feet to a 1/2" iron pin set with a yellow plastic cap inscribed "CCC 4835",
4. N 27°16'05" E 653.99 feet to a 60d nail found,
5. N 27°05'37" E 1394.33 feet to a 60d nail found at the base of a fence post in an offset of the south line of that tract described in a Special Warranty Deed granted to Robert M. Tiemann, dated January 1, 2000, and recorded as Document No. 2000127193, of said official public records for the northeast corner of said Fairways of Blackhawk, Phase IV and continuing with the offset south line of said Tiemann tract,
6. N 27°54'16" E 37.27 feet to a 1-1/4" O.D. iron pipe found for the northwest corner of said Doris Rinderknecht tract and this tract;

THENCE: along the north line of this tract in the following four (4) courses,

1. S 62°30'33" E 982.55 feet with the north line of said Doris Rinderknecht tract and the south line of said Tiemann tract to a 1/2" iron pin set with a yellow plastic cap inscribed "CCC 4835",
2. S 62°40'03" E 1347.13 feet continuing with the north line of said Doris Rinderknecht tract and the south line of said Tiemann tract (#2000127193) to a 1-1/4" O.D. iron pipe found for the common northeast corner of said Doris Rinderknecht tract and the northwest corner of said Ronny Rinderknecht tract,
3. S 62°46'18" E with the north line of said Ronny Rinderknecht tract at approximately 42.69 feet passing the common southeast corner of said Tiemann tract (#2000127193) and the southwest corner of that tract described as 261.87 acres in a Warranty Deed granted to Robert M. Tiemann, dated July 27, 1982, and recorded in Volume 7818, Page 214, Deed Records Travis County, Texas, at 528.23 feet passing a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set for the northeast corner of said Ronny Rinderknecht tract and the northwest corner of said Jeff Rinderknecht tract, at 1056.96 feet passing the northeast corner of said Jeff Rinderknecht tract and the northwest corner of said Jan Barron tract, in all 1762.85 feet to a 1-1/4" O.D. iron pipe found for the northeast corner of said Jan Barron tract and the northwest corner of said Freeborn Family Living Trust tract,

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DATE: MAY 14, 2004

PAGE: 3 OF 3

4. S 62°40'37" E with the north line of said Freeborn Family Living Trust tract and the south line of said Robert M. Tiemann tract (7818/214), at 399.41 feet passing a 1/2" iron pin found for the southeast corner of said Robert M. Tiemann tract (7818/214) and the southwest corner of that tract described as 70.00 acres in Warranty Deed granted to Robert M. Tiemann, et ux, dated October 1, 1991, and recorded in Volume 11545, Page 1136, of said real property records, in all 2236.35 feet to a 1-1/4" O.D. iron pipe found for the northeast corner of said Freeborn Family Living Trust tract and this tract;

THENCE: with the west line of said Weiss Lane and the east line of said Freeborn Family Living Trust tract and this tract in the following eight (8) courses,

1. S 27°10'40" W 1469.06 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
2. S 18°06'55" W 497.10 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
3. S 26°04'30" W 543.79 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
4. S 38°44'35" W 95.42 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
5. S 48°29'15" W 95.18 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
6. S 39°35'45" W 174.74 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
7. S 28°50'05" W 301.73 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
8. S 27°13'14" W 528.71 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set for the southeast corner of said Freeborn Family Living Trust tract and this tract;

THENCE: with the south line of this tract in the following four (4) courses,

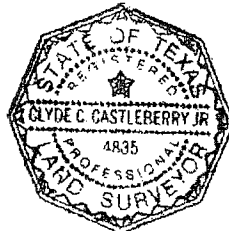
1. N 63°04'45" W 2204.80 feet to a 1-1/4" O.D. iron pipe found for the southwest corner of said Freeborn Family Living Trust tract and the southeast corner of said Jan Barron tract,
2. N 63°04'45" W at 704.99 feet passing a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set for the southwest corner of said Jan Barron tract and the southeast corner of said Jeff Rinderknecht tract, at 1233.64 feet passing a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set for the southwest corner of said Jeff Rinderknecht tract and the southeast corner of said Ronny Rinderknecht tract, in all 1761.89 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set for the southwest corner of said Ronny Rinderknecht tract and the southeast corner of said Doris Rinderknecht tract,
3. N 63°04'45" W 1284.73 feet to a 1/2" iron pin with a yellow plastic cap inscribed "CCC 4835" set,
4. N 63°05'11" W 1071.77 feet to the place of Beginning and containing 540.38 acres of land of which approximately 90.36 acres are out of said Philip Golden Survey No. 17 and approximately 450.02 acres are out of said Edward Flint Survey No. 11.

Bearings based on grid north Texas State Plane Coordinate System (Central Zone) NAD 83

Castleberry Surveying, Ltd.
203 South IH 35, Suite 101C
Georgetown, Texas 78628



Clyde C. Castleberry, Jr.
Registered Professional Land Surveyor No. 4835

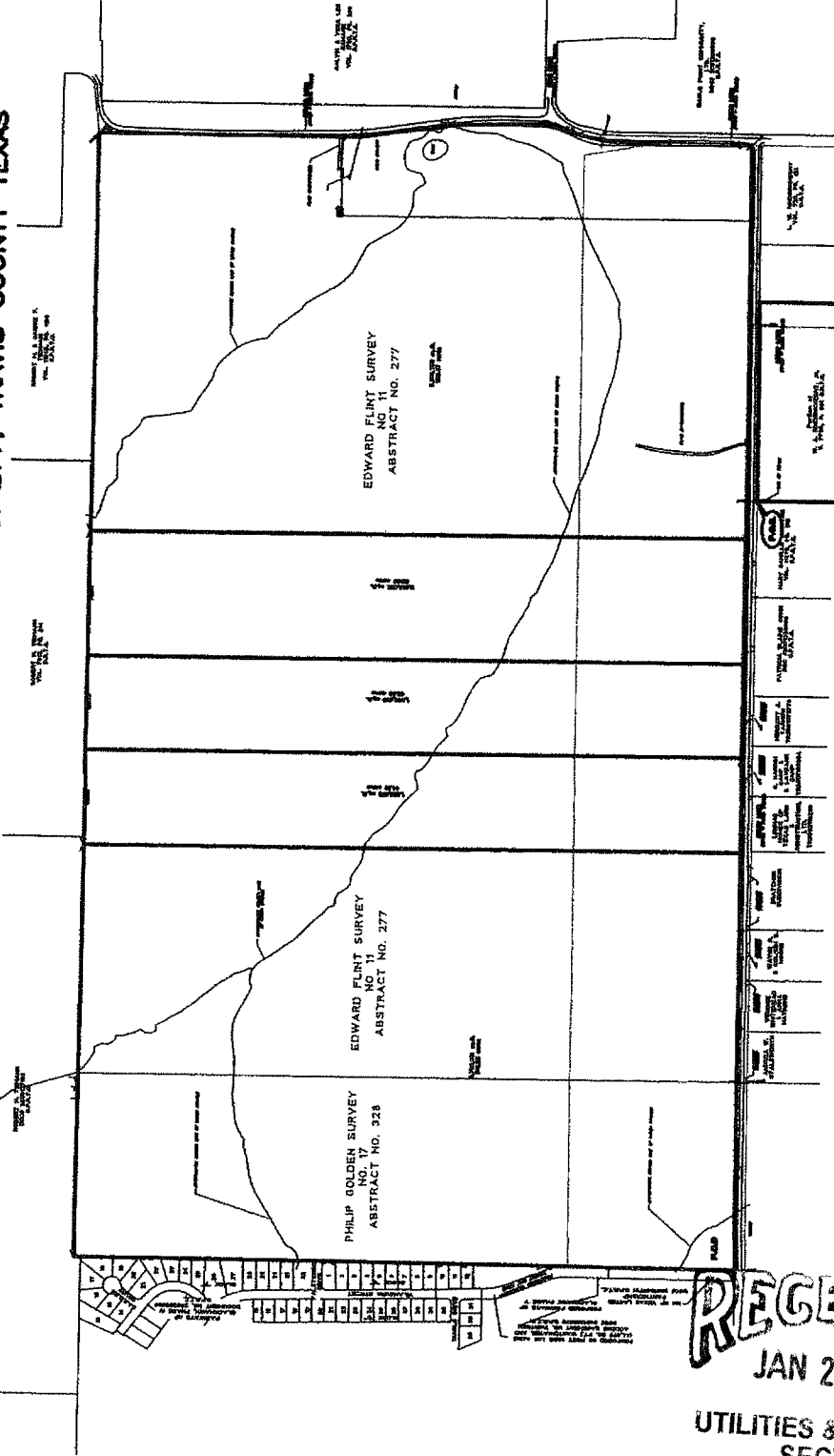


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540.30 ACRES OUT OF THE PHILIP GOLDEN SURVEY NO. 17, ABSTRACT NO. 326
AND THE EDWARD FLINT SURVEY NO. 11, ABSTRACT NO. 277, TRAVIS COUNTY TEXAS

EXHIBIT OF



Castleberry Surveying, Ltd.
203 South I.H. 35, Suite 101C
Georgetown, Texas 78628
(512) 930-1600/(512) 930-9389 fax
email: info@castleberrysurveying.com

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OF

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EXHIBIT 2
TO
TO NPWIS CONSTRUCTION AND PARTICIPATION AGREEMENT

COMPREHENSIVE DEVELOPMENT AGREEMENT
BETWEEN KM KELLY LANE, LTD.
AND
THE CITY OF PFLUGERVILLE, TEXAS
INCLUDING
CONSENT TO THE INCLUSION OF LAND IN WATER DISTRICTS
AND THE DEVELOPMENT OF A 540 ACRE TRACT
IN TRAVIS COUNTY, TEXAS

THIS COMPREHENSIVE DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into effective August 30, 2004, by and among KM KELLY LANE, LTD., a Texas limited partnership, ("Developer"), and the City of Pflugerville, Texas (the "City"), a municipal corporation. This Agreement has been authorized by a resolution of the City Council of the City.

RECITALS

Developer owns or controls a tract of approximately 540 acres in Travis County, Texas (the "Land"). The Land is located in part within the City's corporate limits and in part within the extraterritorial jurisdiction (the "ETJ") of the City. Developer desires to create one or more water control and improvement districts to provide water, wastewater, drainage and solid waste service to the Land. Developer and City desire that the Land be developed pursuant to the terms and conditions of this Agreement.

Effective contemporaneously with this Agreement, Developer and the City have entered into a certain NPWIS Construction and Participation Agreement (the "Construction Agreement") providing for the construction of certain facilities more particularly described in the Construction Agreement, and for the flow through such facilities of wastewater from the districts created in this Agreement.

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Pursuant to the authority of §42.042 of the Texas Local Government Code, and in consideration of the mutual agreements herein set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Developer agree as follows:

ARTICLE I. DEFINITIONS

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

1.1 "Agreement" means this Comprehensive Development Agreement between KM Kelly Lane, Ltd. and the City of Pflugerville, Texas, including Consent to the Inclusion of Land in Water Districts and the Development of a 540 Acre Tract in Travis County, Texas, and the exhibits referenced herein, as such agreement and exhibits may be amended from time to time.

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

1.3 "City Council" means the city council of the City.

1.4 "City Engineer" means the duly appointed and acting professional engineer for the City or any person or persons who, by official designation or appointment of the City Council, succeeds or succeed to all or part of the functions of the City Engineer under this Agreement.

1.5 "City Inspectors" means those employees or representatives of the City designated or appointed by the City Council and who are authorized by the City Council to perform the investigation and inspection services for the City provided for in this Agreement.

1.6 "Collection System" means the facilities, equipment, lands, and rights-of-way for the collection and transportation of wastewater, and any extensions or additions thereto, to be constructed by Developer to serve wastewater customers in the Land.

1.7 "Commission" means the Texas Commission on Environmental Quality, and any successor agency.

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1.8 "Conceptual Land Development Plan" means the conceptual development master plan approved by the City for the KM Property (as defined in the Construction Agreement), as further described in Section 5.1.

1.9 "Covenant" means the Restrictive Covenant to be recorded against the Land in the form attached hereto as Exhibit C.

1.10 "Developer" means KM Kelly Lane, Ltd.

1.11 "Districts" means the Kelly Lane Water Control Improvement District #1 that will be created to include a portion of the Land and each additional district that may be created pursuant to Article II of this Agreement.

1.12 "District Bonds" has the meaning given to such term in Section 4.1 of this Agreement.

1.13 "Drainage System" means facilities, equipment, lands, rights-of-way and contract rights (including payment of impact fees, capital recovery fees or similar payments) for the collection, storage, transportation, diversion, and control of local storm water or other local harmful excesses of water in the Land to be built by Developer to serve the Land.

1.14 "ETJ" means extraterritorial jurisdiction.

1.15 "Land" means the land owned or controlled by Developer and described in Exhibit A.

1.16 "Kelly Lane" means Kelly Lane Utility Company.

1.17 "Kelly Lane Collection System" means the wastewater collection facilities and service area under the certificate of convenience and necessity of Kelly Lane Utility Company.

1.18 "North Pflugerville Wastewater Interceptor System" or "NPWIS" means the wastewater force main, series of lift stations, and related wastewater transmission facilities necessary for the City to provide wholesale wastewater service to land within the Kelly Lane

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Collection System and the Districts, to decommission the Kelly Lane wastewater treatment plant, and to transport wastewater from the Kelly Lane Collection System and the Districts to the City's central wastewater plant.

1.19 "Oversize" means an increase in the size of a component or the addition of a new component of the Collection System or the Water System, which is made at the request of the City for the benefit of the City to serve areas outside the Land.

1.20 "Potable Water" means water which is fit for human consumption. All references to water and water supply in this Agreement mean potable water unless otherwise stated.

1.21 "Professional Services Agreement" has the meaning given to such term in Section 6.7.

1.22 "Subdivision Code" means the City of Pflugerville, Texas Code of Ordinances, Chapter 156, Subdivision Code.

1.23 "Water System" means the facilities, equipment, lands, rights-of-way and contract rights (including payment of impact fees, capital recovery fees or similar payments) for the storage, transportation, and distribution of a potable water supply, and any extensions or additions thereto, that may be constructed by Developer to serve water customers in the Land.

ARTICLE II. CONSENT TO CREATION AND OPERATION OF

MULTIPLE WATER CONTROL AND IMPROVEMENT DISTRICTS

2.1 The City hereby gives its consent to the creation of one or more water control and improvement districts that may include all or part of the Land. The first district to be created shall be named "Kelly Lane Water Control Improvement District No. 1" and may be created to include all or any portion of the Land. A district initially created over only part of the Land subsequently may annex additional portions of the Land.

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2.2 The City acknowledges that Developer intends to create one or more districts within the Land under the authority of Article XVI, Section 59 of the Texas Constitution and the statutes promulgated thereunder. The City further acknowledges that this may be accomplished either by dividing the District authorized by Section 2.1 above into multiple Districts, pursuant to Sections 51.748 through 51.753, Texas Water Code, or by the creation of separate Districts, and the option of which method utilized to create multiple districts lies with the Developer. To the extent that the City's consent to such creation, division, or conversion is required by Section 42.042 Local Government Code or other provisions of law, this Agreement shall serve as the City's consent to such creation, division, and conversion, and no additional consent shall be required. Developer will provide the City with information showing the original boundaries and the revised boundaries of any District created pursuant to this Agreement. The terms and conditions applicable to the initial District authorized by Section 2.1 above, upon assignment of this Agreement, shall apply to any such districts so created, divided, or converted.

2.3 The City acknowledges that a portion of the Land, as shown on the Conceptual Land Development Plan, is intended for commercial use. Developer and District shall exclude these commercial areas from the boundaries of the District before the date upon which the District calls an election to authorize bonds, so that these commercial areas may be annexed by the City. The City agrees that, contemporaneously with the annexation of any such commercial property, the City will zone such property consistent with the land uses shown on the Conceptual Land Development Plan.

2.4 The City consents to the inclusion in the District of any Land within the incorporated limits of the City that is designated for residential purposes in the Conceptual Land Development Plan or on a final plat that is consistent with the Conceptual Land Development Plan (as amended from time to time). By December 31, 2004, or upon receipt of a metes and

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bounds survey describing the area designated for residential purposes, that is to be deannexed from the City, whichever is later, the City shall begin proceedings to deannex from the City limits any such Land which may then be included in a District and timely complete such proceedings.

ARTICLE III. ANNEXATION BY CITY

3.1 The Land comprising the District is located in part within the City limits and in part within the ETJ of the City. As such, all development within the District is subject to the Subdivision Code and other ordinances and regulations of the City that are applicable thereto by virtue of the District being located within the City limits or the ETJ of the City. In accordance with Chapter 212 of the Texas Local Government Code, the District shall not furnish water or wastewater service to any portion of the Land within the City's ETJ unless the City has approved a subdivision plat covering such tract of land.

3.2 In furtherance of the purposes of this Agreement, Developer covenants and agrees to the extent allowed by law that, except upon written consent of the City Council of the City, it will not seek or support any effort to incorporate the Land or any part thereof, or to include the Land within the boundaries of any incorporated entity, other than the City.

3.3 It is expressly understood and agreed that the City may annex a District's lands within the City's ETJ subject to the limitations and requirements for annexation of districts provided for by pertinent statutes at the time of annexation. Provided however, annexation of a District's lands by the City shall not occur prior to the earlier of:

- (i) 20 years after the date the District is created;
- (ii) such time as the District Bonds needed to fund all of the water, wastewater and drainage facilities required to serve the District and authorized under this

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Agreement have been issued and 90 percent of the facilities within a District for which the District Bonds were issued have been installed; or

- (iii) 15 years after the date that a District was created by dividing an original District pursuant to the provisions of Sections 51.748 through 51.753 of the Texas Water Code; provided that District Bonds have been issued by such resulting District.

To the extent any portion of the Land has not been included within a District (an "Excluded Tract") within ten (10) years after the date of this Agreement, unless both Developer and the City agree to extend this Agreement as to the Excluded Tract, this Agreement shall terminate as to the Excluded Tract (but shall continue in full force and effect as to the remainder of the Land).

3.4 Developer agrees to require in the Covenant that all new construction within a platted subdivision within the Land shall comply with the Building Code (as more particularly described in Section 5.2 below).

3.5 Developer agrees to create mandatory homeowners' associations over the Land that shall have the power to maintain parks and enforce deed covenants in the Land both before and after annexation and dissolution of the District by the City.

3.6 Developer shall secure a wholesale contract with Manville Water Supply Corporation ("Manville") for water service and shall provide the City with a draft of the proposed contract for the City's comments, which contract must be approved by the City in writing before it may be deemed effective. Developer will assign the wholesale contract, in part, to each of the Districts according to the needs of each. Upon annexation, the City agrees to assume the rights and obligations under the portion of the wholesale contract relating to a District that is annexed. If Manville does not execute a contract for wholesale water service to

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the Land for whatever reason, then the City shall provide wholesale water service to the Land out of the City's system, provided that the following conditions are met:

- (i) Manville releases its certificate of convenience and necessity for the area to be served and agrees that the City may provide wholesale service;
- (ii) Any required extension of the City's water supply system shall be completed with no expense to the City;
- (iii) The City's proposed water treatment plant has become operational, which is expected to occur in the summer of 2005.

3.7 Pursuant to the Construction Agreement, the City shall provide wholesale wastewater service within the Land and shall obtain any consent of a holder of a certificate of convenience and necessity that may be necessary for the District to provide retail wastewater service within the Land. Developer will assign this contract for wholesale wastewater service within the Land, in part, to each of the Districts according to the needs of each.

ARTICLE IV. ISSUANCE OF BONDS BY THE DISTRICT

4.1 The District may issue bonds and notes, including bond anticipation notes or refunding bonds (the "District Bonds") for any purpose not specifically prohibited by law, this Agreement, or rules and policies of the Commission. District Bonds shall be issued according to and in the manner provided by the rules, policies, and requirements of the Commission. It is specifically agreed that the District Bonds, when issued, shall be secured by a pledge of the District's taxes, and may include a pledge of the District's revenues. In addition to its other duties and obligations under this Agreement, Developer agrees to limit the total bonds issued by the District and all Districts created under Article II, and the total reimbursement to Developer, to Forty-three Million Dollars (\$43,000,000.00) reasonably adjusted for inflation. Additionally, the term of any District Bond shall not exceed twenty-five (25) years, unless the City specifically

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approves a longer term for a particular bond issue. Developer may allocate the amount of bonded debt between the various Districts as allowed by the Commission. Subject to the \$43,000,000.00 limit reasonably adjusted for inflation, the amount of District Bonds issued at any time by the District shall be limited only by applicable statutes and the rules of the Commission. Bond issue documents shall be consistent with the rules of the Commission. The limitations on the amount of District Bonds and the reimbursement to Developer contained in this Section shall continue to bind Developer and any subsequent developers or landowners regardless of any assignment under Article X of this Agreement.

4.2 The parties hereto recognize and agree that this Agreement is not intended to restrict or limit the powers and authority of the District to acquire, own, operate and maintain water or wastewater systems, drainage facilities, recreational facilities, or any other systems, facilities, assets, or properties of or serving the District. The District may use funds and assets from any available, lawful source to provide for acquisition, ownership, maintenance and operation of its systems and facilities, as well as to accomplish any purpose or to exercise any function, act, power or right authorized by law. Such sources shall include without limiting the generality of the foregoing, revenues from any of the systems, facilities, properties and assets of the District not otherwise committed for the payment of indebtedness of the District, operation and maintenance taxes, loans, gifts, grants and donations from public or private sources, and revenues from any other source lawfully available to the District.

4.3 The District may issue District Bonds for the design, development, purchase, construction, acquisition, ownership, operation, repair, extension and improvement of land, easements, works, improvements, facilities, systems, plants, equipment, appliances, interests in property, and contract rights, permits and studies needed therefor and administrative facilities needed in connection therewith necessary or desirable to: