

Control Number: 43119



Item Number: 11

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April 13, 2015

Ms. Heidi Graham
Texas Public Utility Commission
1701 N Congress Avenue
PO BOX 13326
Austin, TX 78711-3326

RECEIVED
2015 APR 17 PM 2:11
PUBLIC UTILITY COMMISSION
FILING CLERK

Re: Engineers Summary of Water Plant and Wastewater Plant Capacities
Dual Certificate of Convenience and Necessity Application
Brazoria County Municipal Utility District No. 22
Brazoria County, Texas
LJA Project No. 0388-1471 (6.0)
PUC Docket No 43119

Dear Ms. Graham:

We understand that you require additional information in order to assist in the process of our request for the creation of a dual certificate of convenience and necessity (CCN) for Brazoria County Municipal Utility District No 22 (the District). We understand you require the following information:

1. How will the District receive water and wastewater capacity?
2. What are the current active connections within Brazoria County Municipal Utility District No 21 (BCMUD 21) and the District?
3. How many connections are proposed within Laurel Heights at Savannah Sections 1 to 7?
4. What is the current water plant capacity?
5. What is the current wastewater treatment plant capacity?

The following information should address your questions above.

The District will receive water service and sanitary sewer service from BCMUD 21. Attached is a copy of the Joint Facilities/Cost Sharing Agreement between BCMUD 21 and the District which defines how BCMUD 21 will provide service to the District and how costs associated with these facilities will be shared. This agreement states that BCMUD 21 will own and operate both the water plant and wastewater treatment plant facilities while providing service to the District.

As of March 2015 and based on reports provided by the Operator for BCMUD 21 and the District, there is approximately 1,593 active connections within BCMUD 21 and 55 active connections within the District providing potable water. Furthermore, there are 363 lots proposed within Laurel Heights at Savannah Sections One through 7. The active connections within the District are located in Laurel Heights at Savannah Sections One, Two and Three.

The current capacity of the BCMUD 21 Water Plant is shown in the table below. These capacities are subject to change as demand on the system warrants further expansions of the plant facilities.

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April 13, 2015
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Facility	Total Capacity
Water Wells ⁽¹⁾	2,200 gpm
Pressure Tank ⁽²⁾	30,000 gal
Ground Storage ⁽³⁾	500,000 gal
Booster Pump ⁽⁴⁾	4,500 gpm

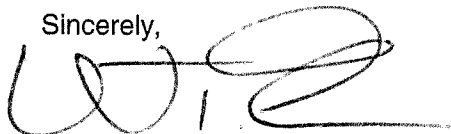
Notes:

- (1) The current water system includes a 1,000 gpm well located at the Water Supply Plant and a 1,200 gpm remote well.
- (2) The Water Supply Plant includes two 15,000 gallon hydro-pneumatic tanks.
- (3) The Water Supply Plant includes two 250,000 gallon ground storage tanks.
- (4) The current water supply plant includes 2 – 1,500 gpm, 1 – 900 gpm, and 2 – 300 gpm booster pumps. Therefore, the total booster pump capacity is 4,500 gpm.

BCMUD 21 owns and operates a 0.50 million gallon per day (mgd) wastewater treatment plant (WWTP). The plant operates under TPDES Permit No. WQ0014222001 issued September 22, 2014 and expires on September 1, 2018. The permit authorizes interim discharges of 0.500 mgd, 0.625 mgd, 0.750mgd and a final discharge of 1.20 mgd. The plant currently operates under the 0.500 mgd discharge limit. Based on the February 2015 Operations report the actual average daily flow through the plant is approximately 0.223 mgd. Based on the existing flow rate at the WWTP, the WWTP can serve over 2,500 ESFCs.

If you have any questions regarding our application or require additional information, please contact me at 713.953.5028.

Sincerely,



William T. Ehler, PE
District Engineer

WTE/ew

Enclosure

P.

JOINT FACILITIES/COST SHARING AGREEMENT

This Joint Facilities/Cost Sharing Agreement (the "Agreement") is entered into this 15 day of March, 2010, by Brazoria County Municipal Utility District No. 21, a conservation and reclamation district and a political subdivision of the State of Texas, organized as a municipal utility district under the provisions of Article XVI, Section 59, Texas Constitution ("No. 21") and Brazoria County Municipal Utility District No. 22, a conservation and reclamation district and a political subdivision of the State of Texas, organized as a municipal utility district under the provisions of Article XVI, Section 59, Texas Constitution ("No. 22").

RECITALS

No. 21 and No. 22 (collectively, the "Districts" and, individually, a "District") are located adjacent to one another and wish to cooperate in the financing and operation of joint water supply facilities, sewage treatment plant facilities, drainage facilities and a fire station to serve the areas within both Districts.

Development within No. 21 commenced prior to development within No. 22. To provide water supply for the developing areas within No. 21 and No. 22, No. 21 entered into various leases and contracts for the construction and installation of water supply and treatment facilities on an approximate 2.186-acre site and 1.837-acre site. All of the water supply facilities, which are currently designed to serve approximately 1,500 equivalent single family connections ("ESFCs"), that have been constructed and are owned by No. 21 are shown on Exhibit A attached hereto (the "Water Supply Facilities").

To provide wastewater treatment capacity for the developing areas within No. 21 and No. 22, No. 21 entered into various leases and contracts for the construction and installation of wastewater treatment facilities on an approximate 5 acre site. All of the wastewater treatment facilities, which are currently designed to serve approximately 1,116 equivalent single family connections ("ESFCs") based on a flow rating of 224 gallons per day that have been constructed and are owned by No. 21 are shown on Exhibit B attached hereto. The Districts acknowledge that an expansion of wastewater treatment facilities will be necessary in the near future as shown on Exhibit B attached hereto ("Phase 3 Expansion"). The completed wastewater treatment facilities and the Phase 3 Expansion shall be considered the "Sewer Plant" under this Agreement.

The Districts anticipate the need for expansions of the Water Supply Facilities and the Sewer Plant in the future when development within both Districts warrants.

To provide for drainage and detention capacity for the developing areas within No. 21 and No. 22, Savannah Development Ltd. (the "Developer") has constructed a 4.767 acre detention pond (the "Detention Pond") located at the northeast corner of

intersection of CR 58 and 80-foot HL&P easement within the boundaries of No. 22. Currently the Detention Pond provides detention only for Savannah Lakes Elementary, the proposed fire station, and adjacent roadway. No. 21 provides out of district water and sewer services to Savannah Lakes Elementary at an increased rate and, in consideration for the same, No. 21 wishes to operate and maintain the Detention pond as provided in this Agreement.

The Districts also wish to share in the construction costs of a fire station to serve the residents within both Districts.

The Districts now wish to enter into this Agreement to set forth the general terms and conditions for the Districts' joint operation and use of the above-mentioned shared facilities. The Districts have each determined that entering into this Agreement is in the best interests of each District and that each District is authorized to enter into this Agreement by the Constitution and laws of the State of Texas.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits herein set forth, the Districts contract and agree as follows:

ARTICLE I. RECITALS, DEFINITIONS AND EXHIBITS

Section 1.01 Recitals Confirmed. The matters set forth above in the recitals of this Agreement are found to be true and correct.

Section 1.02 Definitions and Exhibits. In addition to the terms defined elsewhere in this Agreement, and unless the context requires otherwise, the following terms and phrases used in this Agreement shall have meanings as follows:

"Active Connection" means, when it is connected to a water supply system, a structure designed for residential or non-residential use to which there is Water provided during any portion of a calendar month. A single structure designed for residential use by a single family shall be deemed to be one (1) Active Connection. A duplex consisting of a single structure designed for residential use by two (2) families shall be deemed to be two (2) Active Connections. An apartment building or other structure of one or more units each designed for residential use by a single family shall be deemed to be one (1) Active Connection for each unit. For non-residential structures, each 12,000 gallons of water provided to such structure during any portion of a calendar month shall be deemed to be one (1) Active Connection.

"City" means the City of Pearland, Texas.

"Commission" means the Texas Commission on Environmental Quality or any successor agency exercising supervisory jurisdiction over water conservation and reclamation districts such as the Districts.

"ESFC" means an equivalent single family connection, which for purposes of design of a Facility is based on 315 gpd/ ESFC for wastewater and 420 gpd/ ESFC for water, and for purposes of Operating Costs is based upon usage of 455 gpd/ ESFC of potable water.

"Engineer" means Brown & Gay Engineers, Inc., or its successor duly engaged by No. 21 to provide consulting engineering services.

"Facility" or "Facilities" means the Sewer Plant, the Water Supply Facilities, the Detention Pond, or any of them.

"Fire Agreement" means that certain Fire Protection/EMS Agreement, dated September 19, 2002, between the Districts, the City and the Pearland Volunteer Fire Department relating to the construction of a fire station within the Districts, and the provision of fire services to the Districts.

"Fire Station" means the fire/EMS station described in the Fire Agreement.

"Operation and Maintenance Expenses" means all costs and expenses reasonably incurred in or allocable to the operation and maintenance of the Water Supply Facilities and the Sewer Plant or any of them, including, without limitation, lease costs; contractual payments for the services of a utility operator and/or an independent contractor performing maintenance or repair functions on the Water Supply Facilities and the Sewer Plant; supervision; chemicals; the purchase and carrying of stores; power; material and supplies; permit fees, including costs of renewals of the permits; legal fees; auditing; engineering fees; testing; insurance; costs of billing the Districts; repairs and replacements of damaged or worn-out parts; administrative fines or penalties imposed regarding the operation of the Water Supply Facilities and the Sewer Plant; all other items and expenses of a like nature which may be reasonably required for the efficient maintenance and operation of the Water Supply Facilities and the Sewer Plant in proper operation to render adequate services and to comply fully with all Regulatory Requirements.

"Pro Rata Share" means, for purposes of calculating the reimbursement due to No. 21 from each of No. 22's bond issues, the share of No. 22 according to the number of ESFCs to be served by each Facility as determined by the number of ESFCs to be served by the facilities included in such bond issue, rounded up to reach 100% of the cost, calculated as a percentage of the total number of ESFCs to be served by such Facility. For example, if No. 22 includes funds for water, sewer and drainage projects in its first bond issue to serve 100 ESFCs, No. 21 shall also be required to include funds for its Pro

Rata Share of the Facilities based on 100 ESFCS in that bond issue. The ultimate Pro Rata Shares for each Facility are set forth in EXHIBIT C, as may be amended from time to time. "Pro Rata Share" means, for purpose of calculating maintenance and operating expense or future expansion allocations, the share of each District according to the proposed ESFCS to be served by each Facility, which each District to the Engineer and on which the Engineer based design plans and specification, rounded up to reach 100% of the cost, calculated as a percentage of the total number of ESFCS to be served by such Facility.

"Regulatory Requirements" means the requirements and provisions of any state or federal law, and any permits, rules, orders, or regulations issued or adopted from time to time by any regulatory authority, state, federal or other, having jurisdiction concerning water quality standards or otherwise having jurisdiction over the Facilities, or any of them.

"Sanitary Sewer Collection System" means the sanitary sewer collection system now owned or to be constructed or acquired by each District, including, but not limited to, the sanitary sewers (but excluding storm sewers), manholes, intercepting sewers, pumping works, lift stations, force mains, and all other works and equipment used for the collection and transportation of wastewater.

"Service Area" means that territory or area which at the time of execution of this Agreement is included within the boundaries of the Districts. The Service Area may be modified in accordance with the provisions of this Agreement.

"Sewer Plant Costs" means all payments made by (or to be made by) or on behalf of No. 21 pursuant to the Sewer Plant Lease Agreement, as amended from time to time, or any future lease agreement providing for an expansion of the Sewer Plant, prior to the Sewer Payment Commencement Date, including all lease payments, early purchase payments, land and easement costs, and engineering costs and fees.

"Water Distribution System" means the water system now owned or to be constructed or acquired by each District to serve its customers, including, but not limited to, water lines, valves, meters, and vaults.

"Water Supply Facilities Costs" means all payments made (or to be made) by or on behalf of No. 21 prior to the Water Payment Commencement Date pursuant to the Water Plant Facilities Lease Agreement, or any subsequent lease purchase agreement, including all lease payments, the early payment of principal and the purchase price of the Water Supply Facilities, plugging expenses, land and easement costs, and engineering costs and fees.

The exhibits attached hereto and incorporated herein by reference are as follows:

Exhibit A: Description of Water Supply Facilities

Exhibit B: Description of Sewer Plant

Exhibit C: Pro Rata Shares

ARTICLE II. WATER SUPPLY FACILITIES

Section 2.01 Ownership of Facilities. No. 21 agrees to acquire, construct, improve, enlarge, extend, repair, own, operate, and maintain the Water Supply Facilities in accordance with all Regulatory Requirements so that the Water Supply Facilities will meet the water supply and distribution needs of the Districts. The Districts acknowledge and agree that No. 21 owns legal title to the Water Supply Facilities and the Sewer Plant for the benefit of both Districts; provided, however, that each District owns capacity and has an equitable interest in the Water Supply Facilities and the Sewer Plant according to their Pro Rata Shares, subject to the terms and conditions provided in this Agreement.

Section 2.02 Reimbursement for Facilities. Beginning with No. 22's first bond issue, No. 22 shall reimburse No. 21 for No. 22's Pro Rata Share of the Water Supply Facilities Costs incurred by No. 21, based on the number of ESFCs to be included in such bond issue and according to the following formula: Water Supply Facilities Costs Payment = No. 22's Pro Rata Share times the Water Supply Facilities Costs incurred prior to the Water Payment Commencement Date. Beginning with No. 22's first bond issue, No. 22 shall also pay No. 21 interest on said amount at the rate of the net effective interest rate on No. 22's bond issue, such interest to accrue from the dates of payment by No. 21 (or the Developer on behalf of No. 21).

Section 2.03 Future Expansion. Upon the reimbursement from No. 22 to No. 21 for No. 22's ultimate Pro Rata Share of the Water Supply Facilities Cost (the "Water Payment Commencement Date"), No. 22 and No. 21 shall share the costs (including construction, engineering, and legal costs) associated with future expansions or capital improvements to the Water Supply Facilities based on their Pro Rata Shares. No. 21 shall provide No. 22 with at least 30 days notice of its intent to commence construction of an expansion (and, to the extent practicable, 60 days notice for capital improvements) of the facilities. During such notice period, No. 22 shall have an opportunity to submit written comments to No. 21 regarding the expansion or capital improvement project and No. 21 shall reasonably consider any such comments. After such notice period has expired and No. 21 has given reasonable consideration to any No. 22 comments, No. 21 may proceed with the project and No. 22 shall be responsible to pay to No. 21 its Pro Rata Share of all payments and charges incurred by No. 21. No. 22 shall make such payments to No. 21 on a prompt basis, but in no event later than the applicable due dates of No. 21's payments to its consultants and/or contractors, such that No. 21 is not required to advance No. 22's share.

The Districts agree that neither District shall allow the connection of an additional Active Connection within its boundaries that would result in water supply demand beyond the capacity of such District's Pro Rata Share of the Water Supply Facilities at that time.

ARTICLE III. SEWER PLANT

Section 3.01 Ownership of Facilities. No. 21 also agrees to acquire, construct, improve, enlarge, extend, repair, own, operate, and maintain the Sewer Plant in accordance with all Regulatory Requirements so that the Sewer Plant will meet the wastewater treatment needs of the Districts. The Districts acknowledge and agree that No. 21 owns legal title to the Sewer Plant, including the completed facilities for the Phase 3 Expansion, for the benefit of both Districts; provided, however, that each District owns capacity and has an equitable interest in the Sewer Plant according to their Pro Rata Shares, subject to the terms and conditions provided in this Agreement.

Section 3.02 Reimbursement for Facilities. Beginning with No. 22's first bond issue, No. 22 shall reimburse No. 21 for No. 22's Pro Rata Share of the Sewer Plant Costs incurred by No. 21, based on the number of ESFCs to be included in such bond issue and according to the following formula: Sewer Plant Costs Payment = No. 22's Pro Rata Share times the Sewer Plant Costs. Beginning with No. 22's first bond issue, No. 22 shall also pay No. 21 interest on said amount at the rate of the net effective interest rate on No. 22's first bond issue, such interest to accrue from the dates of payment by No. 21 (or the Developer on behalf of No. 21).

Section 3.03 Future Expansion. Upon the reimbursement from No. 22 to No. 21 for No. 22's ultimate Pro Rata Share of the Sewer Plant Cost (the "Sewer Payment Commencement Date"), No. 22 and No. 21 shall share the costs (including construction, engineering, and legal costs) associated with future expansions or capital improvements, not including the Phase 3 Expansion, to the Sewer Plant based on their Pro Rata Shares. No. 21 shall provide No. 22 with at least 30 days notice of its intent to commence construction of an expansion (and, to the extent practicable, 60 days written notice for capital improvements) of the facilities. During such notice period, No. 22 shall have an opportunity to submit written comments to No. 21 regarding the expansion or capital improvement project and No. 21 shall reasonably consider any such comments. After such notice period has expired and No. 21 has given reasonable consideration to any No. 22 comments, No. 21 may proceed with the project and No. 22 shall be responsible to pay to No. 21 its Pro Rata Share of all payments and charges incurred by No. 21. No. 22 shall make such payments to No. 21 on a prompt basis, but in no event later than the applicable due dates of No. 21's payments to its consultants and/or contractors, such that No. 21 is not required to advance No. 22's share.

The Districts agree that neither District shall allow the connection of an additional Active Connection within its boundaries that would result in wastewater

treatment demand beyond the capacity owned by such District in the Sewer Plant at that time.

ARTICLE IV. OPERATION AND MAINTENANCE OF FACILITIES

Section 4.01 Operation. No. 21 shall operate the Water Supply Facilities and the Sewer Plant (or cause them to be operated) in accordance with accepted practices for the operation of similar type and size facilities. No. 21 shall use reasonable diligence and care to continually hold itself ready, willing, and able to render water supply, wastewater treatment, and detention/drainage services as provided in this Agreement. No. 21 is expressly authorized to enter into operating agreements with any person or entity to operate the Facilities. Such person or entity shall be licensed and qualified under the rules and regulations of the Commission to operate such facilities of a type and size similar to the Facilities. As between the Districts and subject to the terms hereof, No. 21 shall be solely responsible for operation of the Facilities to render water supply and wastewater treatment services to the Districts pursuant to this Agreement, and, as between the Districts, No. 21 shall be an independent contractor in the operation of the Facilities. The Districts recognize that the obligations of No. 21 to operate the Facilities as provided in this Agreement are subject to all present and future permits, rules, regulations or regulatory requirements issued or adopted from time to time by any regulatory authority having jurisdiction, and the Districts agree to cooperate to make such applications and to take such action as may be desirable to obtain compliance therewith. Notwithstanding any provision of this Agreement, neither No. 21 nor No. 22 shall have any obligation to share any costs or responsibilities for a District's facilities or property that are not the subject of this Agreement (including, without limitation, water, sewer, detention/drainage facilities or lines that do not in any manner serve both Districts).

Section 4.02 Operation of the Detention Pond. No. 22 has constructed the Detention Pond through the use of funds advanced by the Developer on behalf of No. 21 and No. 22, the costs of which are referred to herein as the "Detention Pond Costs." No. 22 will reimburse the Developer for No. 22's share of the Detention Pond Costs, as provided in the applicable developer financing agreement between No. 22 and the Developer and as approved by the Commission. In consideration for No. 21's receipt of payment for the out of district water and sewer service provided by No. 21 to Savannah Lakes Elementary located within No. 22, No. 21 agrees to be responsible for all costs related to operation and maintenance of the Detention Pond; provided, however, that upon establishment of the first Active Connection to No. 22's Water Distribution System, No. 21 shall transfer water and sewer service for Savannah Lakes Elementary to No. 22 and No. 22 shall thereafter be responsible in full for all costs associated with the operation and maintenance of the Detention Pond. No. 21 agrees to operate, repair, and maintain the Detention Pond located in accordance with all Regulatory Requirements, subject to the terms and conditions of this Agreement. No. 21, at its option, may allow a

community association that covers some or all of the Districts to maintain some or all of the Detention Pond.

To the extent that any other drainage channel or detention pond, which has been or shall in the future be constructed, provides detention and drainage capacity to developing areas within both No. 21 and 22, all costs related to the operation and maintenance of such facility shall be considered Operation and Maintenance Expenses under this Agreement; provided, however, that the cost-sharing shall be allocated according to the area of land being served by such facility relative to the other party and not according to Active Connections.

Section 4.03 Agreement to Pay Operation and Maintenance Expenses. In consideration of the mutual benefits to be derived from the operation and maintenance of the Facilities, the Districts agree that each shall pay, at the time and in the manner set forth in this Agreement, their respective shares of Operation and Maintenance Expenses.

Section 4.04 Allocation of Operation and Maintenance Expenses. Except as specifically set forth herein, upon the connection of the first Active Connection to No. 22's Water Distribution System and continuing thereafter, No. 22 shall pay No. 21 its proportionate share of all payments that are due or incurred by No. 21 for Operation and Maintenance Expenses. No. 21 shall allocate Operation and Maintenance Expenses between the Districts for payment as follows: each District shall pay a fraction of the monthly Operation and Maintenance Expenses, the numerator of which fraction will be the total number of Active Connections within such District's boundaries for the calendar month and the denominator of which fraction will be the total number of Active Connections within the Service Area for the same calendar month.

Section 4.05 Billing. Each month, No. 21 shall provide written invoices to each District for its share of the Operation and Maintenance Expenses during the preceding month. The monthly bill to each District shall include a breakdown of Operation and Maintenance Expenses by category and a breakdown of the allocation of the Operation and Maintenance Expenses between the Districts. No. 21 will bill itself for its share of Operation and Maintenance Expenses, as set forth in this Section, calculated in the same manner as for No. 22.

Section 4.06 Payment. Invoices shall be due and payable upon the earlier of: (i) thirty (30) calendar days after receipt by a District's bookkeeper, or (ii) thirty calendar (30) days after deposit into the U.S. mail, properly stamped and addressed to the District. No. 22 shall provide all No. 22 data and records to No. 21 necessary to enable No. 21 to timely prepare and send the invoices to No. 22 that are required from No. 21 by this Agreement. The Districts shall make all payments when due to No. 21 in U.S. currency that at the time of payment is legal tender for the payment of public and private debts and shall make payment at the office of the bookkeeper for No. 21 or at

such other place as No. 21 may from time to time designate by sixty (60) days prior written notice.

Section 4.07 Delinquency in Payment. No. 21 may require the Districts to pay interest on past due bills to No. 21 at the rate of ten percent (10%) per annum, together with reasonable attorney's fees incurred in the collection thereof. If a District fails to pay any bills on or before their due date, No. 21 may give notice of such delinquent bills to such District in writing, and if all bills due and unpaid are not paid within thirty (30) days after deposit of such notice in the U. S. mail, properly stamped and addressed to such District, then No. 21 shall be authorized to institute legal proceedings for the collection thereof and to pursue any other available legal remedy which may be appropriate until all bills have been paid in full.

ARTICLE V. QUALITY OF WASTE

Section 5.01 Regulation of Waste. In order to permit the proper treatment and disposal of each District's waste, to protect the public health, to permit cooperation with other entities for the protection of the physical, chemical, and bacteriological quality of public waters and water courses, and to protect the properties of the Sewer Plant, the Districts agree that the quality and strength of all waste collected by the Sanitary Sewer Collection System of each District and discharged into the Sewer Plant must be regulated. Each District covenants and agrees that it will adopt and enforce rules and regulations in compliance with all Regulatory Requirements and as designated by No. 21 from time to time to ensure:

- (1) that only waste amenable to biological treatment shall be discharged to the Sewer Plant;
- (2) that connections to its Sanitary Sewer Collection System will only discharge waste amenable to biological treatment;
- (3) that drains within the District shall be installed or connected in such manner that rainwater and other surface waters are not permitted to enter the District's Sanitary Sewer Collection System; and
- (4) that adequate safeguards will be taken to prevent any abnormal seepage or infiltration or discharge of any solid matter into the District's Sanitary Sewer Collection System.

Section 5.02 Regulation of Industrial Waste. The effects of certain types of waste upon treatment processes at wastewater treatment facilities require that careful and special consideration be given to each non-residential connection. Accordingly, the Districts agree to regulate the discharge of waste from industrial connections into their respective Sanitary Sewer Collection Systems, and in turn into the Sewer Plant, including requirements for pretreatment before discharge into their respective Sanitary

Sewer Collection Systems if necessary to meet the quality requirements for waste admissible to the Sewer Plant, and the Districts will only authorize the discharge of waste from an industrial connection into their respective Sanitary Sewer Collection Systems subject to the filing by an applicant industry of a statement containing all information required by the District to evaluate the quality of the waste anticipated from the industrial connection to determine the necessity of pretreatment and, if pretreatment is required, to determine the type of pretreatment required.

Section 5.03 Amount and Rate of Flow. Each District agrees that it will not allow the discharge of waste from its Sanitary Sewer Collection System into the Sewer Plant in any amount in excess of such District's share of capacity and at any rate that will not permit the adequate treatment and disposal of the District's waste at the Sewer Plant in full compliance with all Regulatory Requirements. Any District shall have the right at its expense to install flow meters to monitor the amount of waste being discharged by the other District into the Sewer Plant.

Section 5.04 Enforcement. The Districts shall be entitled to collect samples of waste at or near the point(s) of entry of each District and at the points of discharge of any waste into a District's Sanitary Sewer Collection System and shall be entitled to cause the same to be analyzed by American Public Health Association standard methods or other appropriate methods to determine if such waste meets the requirements of this Agreement. If analysis discloses that the waste does not comply with this Agreement, it will be the obligation of the District from which the non-complying waste was taken to require the originator of such waste to cease discharging such waste into its Sanitary Sewer Collection System or to pre-treat such waste. Any costs to repair damage to the Sewer Plant treatment processes or fines and penalties associated with violations of the permit or Regulatory Requirements due to a District's failure to regulate its waste shall not be considered Operation and Maintenance expenses rather, such District shall be solely responsible for payment of such fines, penalties, costs associated with repairing the Sewer Plant treatment process, and other resultant costs.

ARTICLE VI. FIRE STATION

Section 6.01 Fire Station Agreement. The Districts agreed to finance the construction of the Fire Station to serve the Districts pursuant to the Fire Agreement. Under the Fire Agreement, the Districts agreed to fund up to \$600,000 (adjusted for inflation as provided in the Fire Agreement) of the costs of the Fire Station (the "Fire Station Cost"). The Fire Agreement further provides that the Districts may consent to contribute additional amounts toward the Fire Station Cost at their own discretion. Since the initial approval of the Fire Agreement, the Districts have agreed to contribute a maximum total of \$1,000,000 toward the Fire Station Cost. The Fire Agreement provides that the Fire Station is to be constructed by the City when the number of single

family homes in the Districts equals 900, and the City is ready to commence construction of the Fire Station.

Section 6.02 Funding of the Fire Station. No. 21 has reached 900 homes, while No. 22 is undeveloped; as a result, No. 22 will not receive any benefit from the Fire Station until development in No. 22 has occurred. Therefore, No. 21 shall fund, either directly or through advances by a developer within No. 21, the entirety of the \$1,000,000 Fire Station Cost, subject to the obligation of No. 22 to reimburse No. 21 for its share of the costs of the Fire Station.

Section 6.03 Reimbursement by No. 22. To the extent it is financially feasible, as determined by No. 22's financial advisor and the rules of the Commission, No. 22 will include its share of the Fire Station Cost in its first bond application. If the Fire Station Cost is not included in the first bond application, such amounts will be included in its second bond application. Upon approval by the Commission, No. 22 will reimburse No. 21 for its share of the Fire Station costs within 60 days of receipt of bond proceeds therefor.

Section 6.04 Allocation of Fire Station Costs. Initially, the costs of the Fire Station shall be divided equally between the Districts, such that No. 22 shall reimburse No. 21 \$500,000 (adjusted for inflation) from No. 22's first bond issue after the No. 22 reaches 200 single family homes. Upon completion of development within both Districts, the Fire Station costs shall be allocated based on each District's percentage of the total number of single family homes in both Districts. Within 90 days of the computation of such percentage and notification of the allocation of costs by either District, the District that is re-allocated a lesser share of the Fire Station costs shall remit to the other District the amount owed to the other District according to the re-allocation.

ARTICLE VII. MISCELLANEOUS

Section 7.01 Covenant to Maintain Sufficient Income. Each District recognizes its duty to, and covenants and agrees that at all times it will, establish and maintain, and from time to time adjust, the rates, fees, and charges for its services to its customers, to the end that the gross revenues and funds received from such rates, fees, and charges and any other lawfully available funds will be sufficient at all times to pay the District's share of the Operation and Maintenance Expenses as set forth in this Agreement.

Section 7.02 Term. Unless terminated by mutual agreement of the Districts, this Agreement shall continue in force and effect for a period of forty (40) years from its date.

Section 7.03 Approval or Consent. Whenever this Agreement requires or permits approval or consent to be hereafter given by any District, the Districts agree that such approval or consent shall not be unreasonably withheld.

Section 7.04 Force Majeure. In the event any District is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Agreement, then the obligations of such District, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the District whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other District. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply or wastewater treatment resulting in an inability of No. 21 to provide services from the Water Supply Facilities or Sewer Plant, or any other incapacities of any District, whether similar to those enumerated or otherwise, which are not within the control of the District claiming such inability, which such District could not have avoided by the exercise of due diligence and care

Section 7.05 Regulatory Agencies. This Agreement is subject to all rules, regulations and laws which may be applicable of the United States, the State of Texas, and any regulatory agency having jurisdiction.

Section 7.06 No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any District hereto of any term, covenant, condition, or liability hereunder, or the performance by any District of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

Section 7.07 Insurance. No. 21 shall keep insured such parts of the Facilities as are customarily insured by municipal utility districts in Texas operating like properties in similar locations under the same circumstances with a responsible insurance company or companies against losses, and to the extent insurance is customarily carried by such municipal utility districts, including boiler and machinery coverage. In the event of No. 21's failure to obtain and maintain such insurance, No. 22 shall have the right but not the obligation to purchase such required insurance and thereafter receive credit for any premiums so paid against bills for Operation and Maintenance Expenses received from No. 21.

Section 7.08 Addresses and Notice. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (a) depositing same in the U.S. mail, addressed to the District to be notified, postage prepaid and registered or certified with return receipt requested; (b) by delivering the same in person to such District; or (c) by sending same by telefacsimile. Notice given by mail shall be effective three (3) days after deposit in the U.S. mail and notice delivered in person or sent by telefacsimile shall be effective upon receipt. For the purpose of notice, addresses and facsimile numbers of the Districts shall, until changed as hereinafter provided, be as follows:

If to No. 21 to:

Brazoria County Municipal Utility District No. 21
c/o Allen Boone Humphries Robinson LLP
Attn: Nancy Carter
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Facsimile: 713-860-6604

If to No. 22, to:

Brazoria County Municipal Utility District No. 22
c/o Allen Boone Humphries Robinson LLP
Attn: Jim Boone
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Facsimile: 713-860-6604

Either District may designate another address or facsimile number for all purposes of this Agreement by giving the other District not less than fifteen (15) days advance written notice of such change.

Section 7.09 Assignability. This Agreement shall bind and benefit the Districts hereto and their successors but shall not otherwise be assignable, in whole or in part, by either District except by supplementary written agreement between the Districts.

Section 7.10 Modification. This Agreement shall be subject to change or modification only with the written mutual consent of the Districts.

Section 7.11 Districts in Interest. This Agreement shall be for the sole and exclusive benefit of the Districts, their legal successors, and shall not be construed to confer any rights upon any third District. Nothing herein shall be construed to confer standing to sue upon any District who did not otherwise have such standing and it is expressly agreed that nothing herein shall be construed to create any duty or obligation on the part of one District to the customers of another.

Section 7.12 Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 7.13 Merger. This Agreement, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between the Districts relative to the subject matter hereof.

Section 7.14 Remedies. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all remedies, other than termination of this Agreement or suspension of water, wastewater, and detention/drainage services at then-current quantities, existing at law or in equity, including specific performance and mandamus, may be availed of by any District and shall be cumulative.

Section 7.15 Right of Entry. Each District shall have a right of entry at reasonable times and upon reasonable notice in, over, and across the lands, properties, and facilities comprising the other District's Water Distribution System and/or Sanitary Sewer Collection System for the purpose of making any inspections permitted by this Agreement and for the purpose of performing any other functions or duties authorized by this Agreement.

Section 7.16 Legal Representation. The Districts have requested Allen Boone Humphries Robinson LLP ("ABHR") to represent them in connection with the preparation and review of this Agreement. ABHR has discussed with the Districts the advantages and disadvantages of the Districts engaging independent counsel to represent the Districts in connection with the preparation and review of this Agreement because of the potential conflict of interest in ABHR's representation of the Districts in this matter. ABHR has informed the Districts that it reasonably believes that its representation of one District will not be affected by its representation of the other District, and that ABHR is fully able and willing to represent the Districts fairly and adequately in connection with this matter. With a full understanding of the Districts' options to retain independent counsel or to have ABHR represent them with respect to the matters described above, and the advantages and disadvantages of either choice, the Districts requested that ABHR represent the Districts with respect to the matters described above. The Districts understand that there may be complete disclosure to the Districts of all information and communications that ABHR receives from the Districts in the course of ABHR's representation in this matter.

[EXECUTION PAGE FOLLOWS]

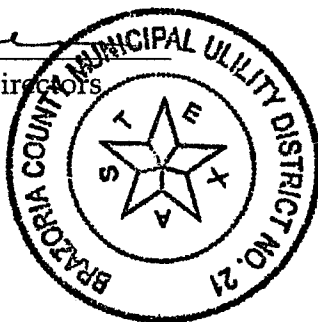
IN WITNESS WHEREOF, the Districts have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original, as of the date and year first written above.

ATTEST:



Secretary, Board of Directors

(SEAL)



**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 21**

By: 

President, Board of Directors

ATTEST:

Secretary, Board of Directors

(SEAL)

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 22**

By: _____
President, Board of Directors

IN WITNESS WHEREOF, the Districts have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original, as of the date and year first written above.

ATTEST:

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 21**

Secretary, Board of Directors

By: _____
President, Board of Directors

(SEAL)

ATTEST:

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 22**

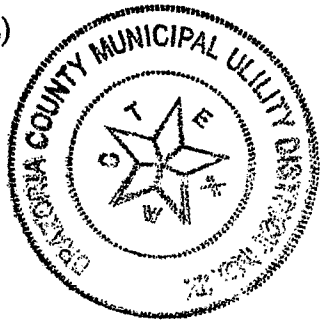


Secretary, Board of Directors

By: 

President, Board of Directors

(SEAL)



EXHIBITS
(B&G to prepare)

Exhibit A: Description & Illustration of Water Supply Facilities

- Water Plant #1
- Remote Well (and plugging costs)
- New water well
- Include map or plat showing water plant site (any remote sites?)

Exhibit B: Description & Illustration of Sewer Plant

- Ph 1 & 2:
 - 250,000 gpd Digester
 - two 125,000 gpd Aeration Tanks,
 - 250,000 gpd Clarifier and
 - Chlorine Contact Chamber, and certain other related facilities (the "Phase 1 & 2 Sewer Plant Facilities").
- Ph 3:
 - 125,000 gpd Aeration Tank,
 - 250,000 gpd Digester,
 - 250,000 gpd clarifier,
 - second chlorine contact chamber and certain other related facilities
- Include map or plat showing sewer plant site
- Is there an on-site lift station that serves both districts?

Exhibit C: Pro Rata Shares

- Ultimate buildout of both facilities - assume no annexation for now. We'll amend later.
- I assume all facilities serve both districts based on total esfcs. If there are unique facilities that aren't shared that way (e.g. a regional detention pond, lift station, box culvert), identify what % share goes to each facility.

EXHIBIT A

BRAZORIA COUNTY
M.U.D. NO. 22

WATER PLANT FACILITIES	
1 - 1000 gpm Water Well	
2 - 200,000 Gallon Ground Storage Tanks	
2 - 15, 000 Gallon Hydro-mechanical Tanks	
1 - 300 gpm Booster Pump	
1 - 800 gpm Booster Pump	
1 - 800 kw Emergency Diesel Generator	
1 - Chlorine Room	
1 - Chlorine Dosing Pump	
REMOTE FACILITIES AT REMOTE WATER WELL SITE	
1 - 1000 gpm Water Well	
1 - Chlorine Room	
PLUMBING FACILITIES	
1 - Water, Vol. No. 2	

REMOTE WATER
WELL NO. 1

WATER PLANT

BRAZORIA COUNTY
M.U.D. NO. 21

LEGEND
WATER SUPPLY FACILITIES ———— R/S

**BROWN
& GAY**

Brown & Gay Engineers, Inc.
18777 Westchase, Suite 400, Houston, TX 77060
Tel: 281-483-4700 Fax: 281-483-4701

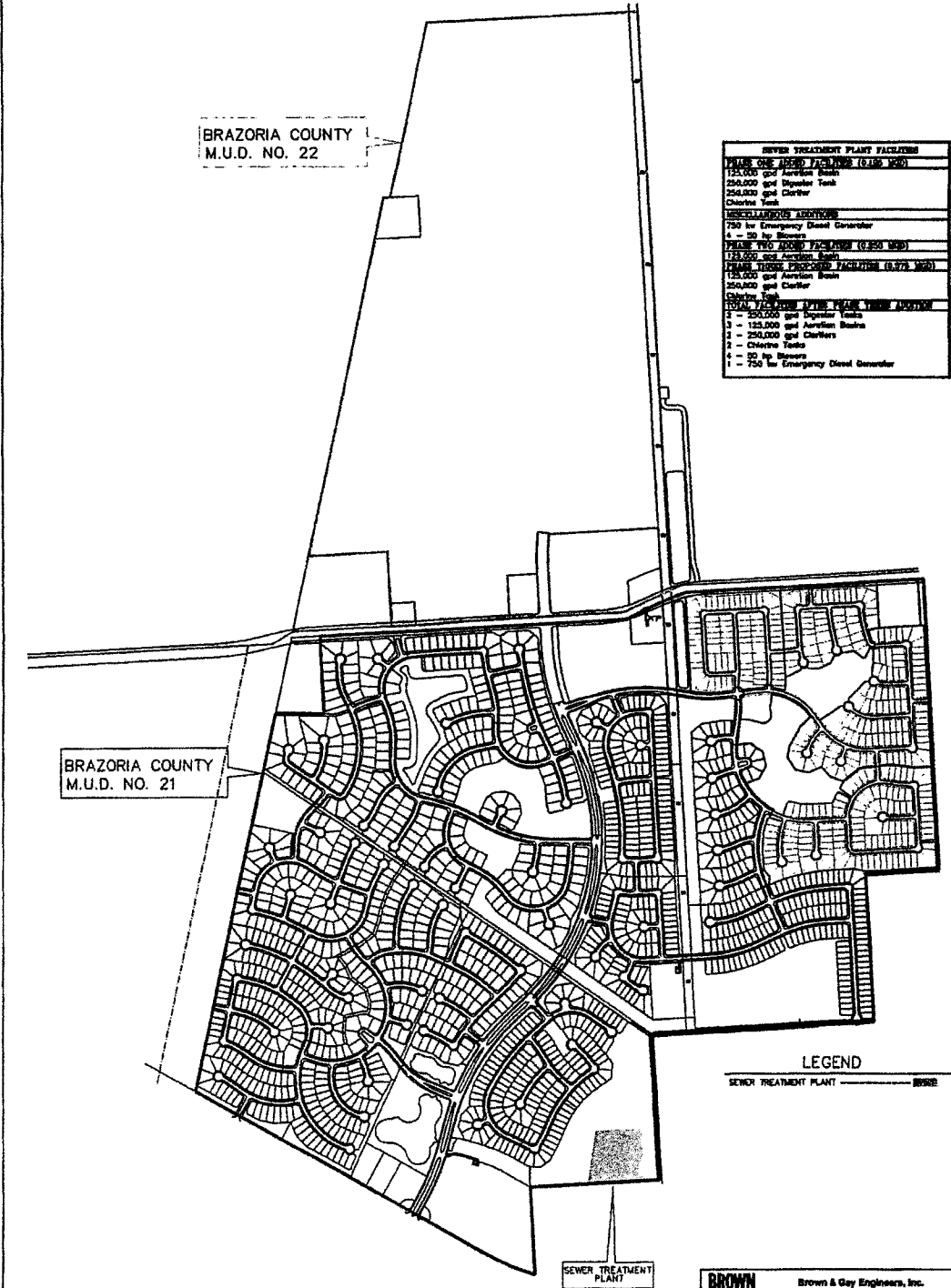
BCMUD 21 & BCMUD 22
WATER SUPPLY FACILITIES

Scale:	Job No.:	Date:	Exhibit:
NTS	02160	03/2010	1

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EXHIBIT B

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BRAZORIA COUNTY
M.U.D. NO. 22

BRAZORIA COUNTY
M.U.D. NO. 21

SEWER TREATMENT PLANT FACILITIES	
PLANT NO. 220001 FACILITY (0.250 MGD)	
125,000 gal Aeration Basin	
250,000 gal Digester Tank	
250,000 gal Clarifier	
Chemical Tank	
MISCELLANEOUS ADDITIONS	
750 hp Emergency Diesel Generator	
4 - 30 hp Blowers	
PLANT NO. 210001 FACILITY (0.250 MGD)	
125,000 gal Aeration Basin	
PLANT NO. 210002 FACILITY (0.250 MGD)	
125,000 gal Aeration Basin	
250,000 gal Clarifier	
Chemical Tank	
TOTAL FACILITIES (PLANT NO. 21 & 22)	
2 - 250,000 gal Digester Tanks	
4 - 125,000 gal Aeration Basins	
2 - 250,000 gal Clarifiers	
2 - Chemical Tanks	
4 - 30 hp Blowers	
1 - 750 hp Emergency Diesel Generator	

LEGEND
SEWER TREATMENT PLANT

SEWER TREATMENT PLANT

BROWN & GAY
Brown & Gay Engineers, Inc.
3877 Westchester, Suite 400, Houston, TX 77068
Tel: 281-864-0100 Fax: 281-864-0101

BCMUD 21 & BCMUD 22
SEWER TREATMENT PLANT

Scale:	Job No.:	Date:	Exhibit:
NTS	02160	03/2010	1

EXHIBIT "C"

Facility	District Share ⁽¹⁾⁽²⁾	
	BCMUD 21	BCMUD 22
Wastewater Treatment Plant	51.58%	48.42%
Water Plant	51.58%	48.42%
Remote Water Well No. 1	51.58%	48.42%

Notes:

(1) BCMUD 21 district share = 1848 esfc / 3583 total esfc = 51.58%

(2) BCMUD 22 district share = 1735 esfc / 3583 total esfc = 48.42%