



Control Number: 43572



Item Number: 63

Addendum StartPage: 0

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

43572

R L WILSON, P.C.

PROFESSIONAL LEGAL SERVICES

RECEIVED

MILAM BUILDING
115 E. TRAVIS, SUITE 1230
SAN ANTONIO, TEXAS 78205

2014 NOV 13 AM 10:59
TELEPHONE: (210) 223-4100
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RLW3D@SBCCGLOBAL.NET
PUBLIC UTILITY COMMISSION
CLERK

June 12, 2006

Honorable Cassandra J. Church
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street
Austin, Texas 78701

Via Fax 512/475-4994

Total Pages: 6

RE: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0664-UCR, *In Re: The Application of Bexar Metropolitan Water District To Amend Water CCN No. 10675 in Bexar County*, Before the State Office of Administrative Hearings

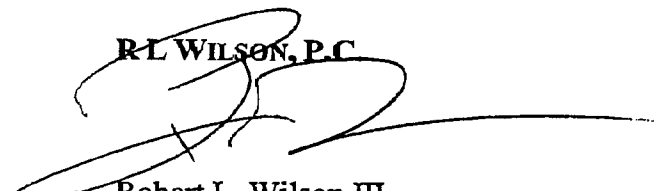
Dear Judge Church:

With regard to the above-referenced matter, please find attached the *Supplemental* Pre-filed Testimony of Michael J. Albach. BexarMet intends to rely on this Supplement and accompanying Exhibits (23 -- 29) together with its initial pre-filed testimony and Exhibits at the time of the Hearing on the Merits of its Application.

Thank you for your attention to this matter.

Sincerely,

RL WILSON, P.C.


Robert L. Wilson III

CC: Service List

63

**SOAH DOCKET NO. 582-03-3275
TCEQ DOCKET NO. 2003-0664-UCR**

IN RE: THE APPLICATION OF	§	BEFORE THE STATE OFFICE
BEXAR METROPOLITAN	§	
WATER DISTRICT TO AMEND	§	OF
WATER CCN NO. 10675	§	
IN BEXAR COUNTY	§	ADMINISTRATIVE HEARINGS

**BEXAR METROPOLITAN WATER DISTRICT's
SUPPLEMENTAL PREFILED DIRECT TESTIMONY OF
MICHAEL J. ALBACH**

Supplemental Direct Pre-Filed Testimony of Michael J. Albach

Page 1 of 4

1 Q. Please state your name and business address for the record.

2 A. Michael J. Albach, I office at 2047 W. Malone, San Antonio, Texas 78225

3 Q. By whom are you employed and in what capacity?

4 A. I am employed by Bexar Metropolitan Water District ("BexarMet") as its Director
5 of Operations. I was formerly employed as BexarMet's Deputy General Manager for
6 Water Resources. I have been employed by BexarMet since 1996.

7 Q. Have you previously rendered testimony in this proceeding?

8 A. Yes. However, there have been some new developments since that time. I submit
9 this supplemental testimony for the purpose of clarifying, updating and making more
10 accurate my previous testimony concerning:

11 a BexarMet's present service to parts of the proposed area;

12 b. Additional requests for BexarMet's Service in the proposed area; and

13 c. BexarMet's resources available for public service;

14 Q. Have you reviewed the Application for CCN amendment made the basis of this
15 proceeding since you rendered your initial testimony in this cause?

16 A. Yes, I have. In my most recent review of the application, I noticed some information
17 which, although true in 2002, is no longer accurate. This information largely relates
18 to the sources of water BexarMet would use to serve the proposed area, if the District
19 ultimately receives the CCN amendment. I am in the process of drafting an
20 amendment to the application that will provide up-to-date information, as BexarMet
21 has largely diversified and expanded the sources of water available to serve the
22 proposed area.

BexarMet's Service to the Proposed Area

Q. Is BexarMet presently providing any service to the proposed CCN area?

A. In addition to our existing service to adjacent and contiguous areas directly to the south and west of the proposed area, BexarMet is presently serving residential customers within the area, itself. These customers reside within two small subdivisions. They are being served without a CCN because BexarMet, as a water district, is not technically required to obtain a CCN before providing service to areas adjacent and contiguous to our existing service area.

Requests for BexarMet's Service

Q. Has BexarMet has received additional requests for service in the proposed area since the time you rendered your initial pre-filed testimony?

A. Yes. As I originally testified, BexarMet has received numerous requests to provide service to various portions of the proposed area, including requests from Pape-Dawson Engineers, Brown Engineering Co., Norfolk Properties, Ltd., Denton Communities, Gordon Hartman Homes / W.F. Castella and Associates, and Bitter Blue, Inc. Most recently, we received a request for service from Biterblue and/or Borgfeld Partners, Ltd. This request was sent to me, and I have conducted personal and telephonic conferences with Mr. Denton regarding his requests for BexarMet service in the proposed area. A copy of Mr. Denton's request for service is attached as *Exhibit No. 23*. We have also received notice that two other landowners – David Mann and Randy Dym desire BexarMet' water service in the area. Letters from these gentlemen requesting such service are attached as *Exhibits 24 and 25*, respectively.

Supplemental Direct Pre-Filed Testimony of Michael J. Albach

Page 3 of 4

1 Finally, BexarMet has entered into a Utility Services Agreement to provide water to
2 Centex Homes, Inc. In the proposed service area. *See Exhibit 26.*

3 Q: Are you aware of any relationship existing between this requestor of BexarMet
4 service and the Intervenor in this case?

5 A: It is my understanding that one of the principals of both Borgfeld Partners, Ltd. and
6 Denton Communities, Lloyd "Laddie" Denton, Jr., is also a principal in the
7 Intervenor corporation -- Bitterblue, Inc. In addition, I have met and spoken with
8 Dan Kossel, an associate of Mr. Denton regarding requests for BexarMet service in
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10 Q: Are you aware of whether Bitterblue, Inc. owns any property in the proposed service
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Supplemental Direct Pre-Filed Testimony of Michael J. Albach

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R L WILSON, P.C.

PROFESSIONAL LEGAL SERVICES

MILAM BUILDING
115 E. TRAVIS, SUITE 1230
SAN ANTONIO, TEXAS 78205

TELEPHONE: (210) 223-4100
TELECOPIER: (210) 223-4200
RLW3D@SBCGLOBAL.NET

June 12, 2006

Ladonna Castanuela
Chief Clerk, TCEQ
P.O. Box 13087 – Mail Code 105
Austin, Texas 78711-3087

Via Certified Mail
Return Receipt Requested

RE: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0664-UCR, *In Re: The Application of Bexar Metropolitan Water District To Amend Water CCN No. 10675 in Bexar County*, Before the State Office of Administrative Hearings

Dear Ms. Castanuela:

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Thank you for your attention to this matter.

Sincerely,


R L WILSON, P.C.

Robert L. Wilson III

CC: ALJ Cassandra Church
and service list (W/o enclosures)

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16 A. Yes.

EXHIBIT 23

Bitterblue, Inc
developing a difference

MEMORANDUM

TO Mike Albach (via email malbach@bexarmet.org)
FROM Laddie Denton
DATE February 20 2006
RE **BORGFELD ROAD SERVICE AREA
FREISENHAHN & DYM TRACTS
IDENTIFICATION OF QUESTIONS AND ISSUES FOLLOW UP TO
MEETING OF 1/26/06**

Attached for your consideration is the summary we discussed that we would provide to you seeking to identify all the areas needing to be addressed in conjunction with seeking to resolve water service agreements for the referenced area. We delayed because we did not wish to complicate Centex's discussions with you and also because some tract densities have been being revised. However at this point some overall considerations would appear to be needed and helpful for all interests. This outline is not presumed to be all inclusive but hopefully we hit the points you requested and our questions regarding service to these tracts. We are available to further explain or elaborate and would hope to pursue these matters as rapidly as possible.

Thank you for your consideration of this transmittal.

Attachment as stated

cc Mr Gil Olivares (via email golivares@bexarmet.org)
Mr Alfonso Ruiz (via email arulz@bexarmet.org)
Mr Johnny Terrazas (via email jaterrazas@bexarmet.org)
Mr Trey Marsh (via email tmarsh@centexhomes.com)

F:\SARAH\WPDATA\Laddie D to VB g/l d R d S rvice Area Outline.wpd

11 LYNN BATTS LANE SUITE 100 □ SAN ANTONIO TEXAS 78218
TELEPHONE 210-828-6131 □ FACSIMILE 210-828-6137
www.dentonc.com



BMWD

**FREISENHAHN SERVICE AREA
SUMMARY OF ITEMS TO BE ADDRESSED
2/20/06**

The following are items needing to be addressed to resolve the cost timing structure and feasibility (capacity) for Bexar met entering service agreements with the entities controlling Freisenhahn Dym and related Oliver Ranch tracts. These items are presented for discussion purposes in an effort to complete resolution of water service to this area.

- 1 Resolution and completion of USA for Freisenhahn #1 (F#1) with Centex
- 2 Identification of infrastructure requirements and costs related to the overall service of this area
 - a Manifolding of Dym Tract wells
 - b Realignment of Dym easements with site land plan
 - c Use of Dym flex space for tanks chlorination etc
 - d Staging of these improvements and time frames for delivery
 - e Total cost structure of the infrastructure requirements and timing thereof for payment
 - f Cost sharing structure for infrastructure vis a vis the tracts Bexar met impact fees and additional future system users
 - g From resolution of 1st provision of USA s for
 - (1) F#1 Tract Centex (imminent)
 - (2) Dym Tract to be resolved with these discussions based on currently projected 500 EDUs with sewer service Fallback plan is 144 EDUs with septic if sewer accessibility fails
 - (3) F#2 Tract 13 years out in terms of development securing a USA would be desired but this tract is not in position to make a significant financial commitment at this time
- 3 Water capacity questions
 - a Initial capacity identification without Dym wells
 - b Parameters of Dym wells delivery to the system and timing of resolution of supply capacity transmission facilities and treatment facilities
 - c Supply source if Dym wells have capacity or sustainability problems i.e. what's the back up plan
 - d Accommodation of a potential and relatively immediate 1550 EDUs
- 4 Easement questions
 - a Dym on site easement can move to street ROW locations in conjunction with Dym tract land plan
 - b A 36 ft utility easement will be sought parallel to the north property line of the F#2 tract for
 - (1) Water transmission line between Dym tract and F#1 tract in conjunction with overall system plans

- (2) Future service for F#2 tract
- (3) Possible accommodation of a sewer force main with proscribed separation of sewer and water lines
- (4) Possible accommodation of 3 phase overhead electric lines for service to well flex space sites and requirement for CPS looping
- c Required easements through F#1 for
 - (1) Overall service system
 - (2) Provision for AGUA well future consideration and/or use of well site for system infrastructure
- d Identification of any additional easements needed

5 AGUA well and AGUA lease questions

Note AGUA is a totally separate entity which has nothing to do with the land owning land development entities. The ownerships are totally different though some limited partners are involved in both entities. Fiduciary relationships are maintained. Facilitation of the interests of all groups in this service area plan is a consideration.

- a Consideration of the AGUA well as a supply source
- b Consideration of easements and/or on site facilities in conjunction with overall system plans and/or a above
- c Consideration of additional wells on F#1 or (more likely) F#2 in conjunction with the overall system
- d Timing related to a-c above

6 Tracts status

- a F#1
 - (1) MDP complete and approved
 - (2) Platting in process
 - (3) Construction start Phase I April 06
- b F#2
 - (1) MDP being resubmitted for revisions
 - (2) Sewer provisions in process
 - (3) Construction start TBD
- c Dym
 - (1) MDP being resubmitted for revisions
 - (2) Engineering in process
 - (3) Sewer provision in process
 - (4) Construction start date Fall 06

FREISENHAHN SERVICE AREA
SUMMARY OF DENSITIES
February 20 2006

TRACT	APPROX ACRES	APPROX LOT YIELD	LOT PRODUCT	BUILDER
Freisenhahn #1	101	450	45 55 x 120	Centex
Freisenhahn #2	233	600	45-65 x 120	Centex / Others
Dym	188	500	50-80 x 120	Various
Total	522 acres	1550 units	n/a	n/a

SUMMARY OF PROBABLE UNIT DELIVERIES

YEAR	FREISENHAHN #1	FREISENHAHN #2	DYM	TOTAL
2007	100	0	75	175 units
2008	100	50	100	250 units
2009	100	100	100	300 units
2010	100	100	100	300 units
2011	50	100	100	250 units
2012		150	25	175 units
2013		100		100 units
TOTAL	450 units	600 units	500 units	1550 units

Note The timing of development of Freisenhahn #2 is speculative at this time. It is the Freisenhahn Homestead and movement of this tract into development could occur at any time in 1-3 years at the Freisenhahn's discretion.

EXHIBIT 24



August 31 2005

To Mr S Gilbert Olvares
General Manager
Bexar Met Water District
2047 W Malone
San Antonio, Texas 78225

Re Water and Sewer Availability to a 50 Acre Tract, located at Borgfeld/Blanco Rd.

Dear Mr Olvares

Mann Development is in the process of developing a 50 acre tract located on the north side of Borgfeld Rd. near the intersection of Blanco Road called Venado Creek. Our company has been working with your staff for over a year on this project. Recently I have been made aware through the media that there is controversy over who exactly has the right to provide sewer and more importantly water to the area north of Borgfeld which is bounded by Blanco Rd. to the west and HWY 28 to the east. As mentioned in the media, our development

I am enclosing the instructions from SAWS directing us to work directly with you concerning water. We at Mann Development desire to continue working with Bexar Met to complete the process of providing water to the above captioned site. Please clarify for us where we stand with the water situation. We have been satisfied with the Bexar Met process and feel that it would be damaging to start the process over with SAWS.

Your response to this would be greatly appreciated.

A handwritten signature in black ink, appearing to read 'David L. Mann'. The signature is fluid and cursive, written over a horizontal line.

David L. Mann
CEO Mann Development, Ltd.

EXHIBIT C



October 4, 2004

Arnulfo (Arnie) Gonzalez, P E
e-Sol Engineered Solutions
P O Box 690964
San Antonio Texas 78269

Re Water and Sewer Availability to a 56-Acre Tract, located at Borgfeld Drive.

Dear Mr Gonzalez

This is in response to your request for the availability of water and sewer service to the above referenced property located at Borgfeld Drive east of the intersection of Blanco Road.

Water Availability

The San Antonio Water System does not have water service near the vicinity of the property. The property for which you are requesting water service is situated within the Bexar Metropolitan Water District jurisdiction for water service. Therefore should you have any questions regarding this inquiry please contact Rose Abrego with the Bexar Metropolitan Water District at (210) 354-6563.

Sanitary Sewer Availability

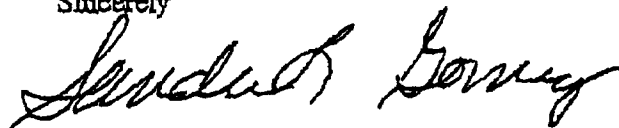
The property located inside the San Antonio Water System's (SAWS) Outer limits is located within the Cibola Creek Watershed. There are no accessible sewer mains within 300 feet of the vicinity of the property. Since a sewer main extension cannot be established in the San Antonio Water System will not object to the installation of an individual septic tank system to serve the property provided that the property owner meets all requirements set forth by the Bexar County Public Works Department. For additional information and requirements regarding septic tank systems please call (210) 335 6700 and contact Ms Renee Green at Bexar County Public Works.

If the developer chooses to extend the nearest sewer main to the proposed site he/she must do so at his cost. All tie ins into the San Antonio Water System's collection system must be based on fieldwork and in conformance with the San Antonio Water System's Utility Service Regulations which were passed on February 18 2003 and became effective on February 19 2003. The developer/property owner may be required to construct additional sanitary sewer main extensions (on site and/or off site) right of way acquisitions private sewer service laterals required to serve the property lift stations and force main systems lift station upgrades lift station maintenance fees (per lift station) along with payment of all applicable fees in effect at time of plat recordation or the latest date allowable by law for properties within the San Antonio Water System's OSA.

This letter does not constitute a commitment by the SAWS to provide water and sewer service to the subject property. As your development plans progress, it will be necessary for you to provide us with more specific information regarding the proposed development. The actual availability of water and/or wastewater service to the property will be dependent upon the site-specific requirements such as site elevation, pressure requirements and estimated demand and discharge. Your engineer should assess the site specific requirements prior to requesting connection to SAWS infrastructure.

If additional information is required, please feel free to contact me at (210) 704-7114 or fax me at (210) 704 7028.

Sincerely,



Sandra L. Gomez, Engineer II
Development Engineering Division
Infrastructure Development

EXHIBIT 25

RANDY DYM
11815 IH-10 WEST, SUITE 107
SAN ANTONIO, TEXAS 78230
TELEPHONE 210 699 3227 FAX 210 696 6518
Email randyrd@shccglobal.net

August 31 2005

Mr Gil Olivares
General Manager
Bexar Metropolitan Water District
2047 W Malone
San Antonio Texas 78225

Dear Mr Olivares

I am the owner of a tract of land situated in north Bexar County Texas west of Hwy 281 North and east of Camp Bullis. This tract is generally referred to as the "Dym" tract. I understand that my property is located within the area for which both BexarMet and SAWS have applied for permission to provide water service

I am writing to express my preference for receiving service from BexarMet. BexarMet is the logical provider for this area because it provides service to contiguous areas to the south and west of the proposed area. SAWS has no facilities in the area, and I believe that they will take substantially longer to deliver water to my property for which I have plans to equip with residential units. Delay in receiving the water as a result of SAWS construction will cause me financial harm.

Thank you,

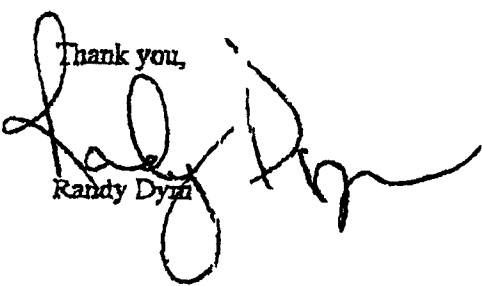

Randy Dym

EXHIBIT D

EXHIBIT 26

SCANNED

**UTILITY SERVICES AGREEMENT
FOR CONSTRUCTION AND ACCEPTANCE OF SYSTEM
AND RETAIL PUBLIC WATER UTILITY SERVICE
AND PRE PAID IMPACT FEE**

This Utility Service Agreement for Construction and Acceptance of System and Retail Public Water Utility Service and Pre Paid Impact Fee (the Agreement) is entered into as of the 2nd day of February 2006 (the Effective Date) between **BEXAR METROPOLITAN WATER DISTRICT** (BexarMet) a political subdivision of the State of Texas and **Centex Homes Inc** a Nevada General Partnership (Developer)

RECITALS

WHEREAS Developer is in the process of developing and intends to have developed or caused to be developed over the next 10 years a 225 acre more or less tract of land known as the Friesenhahn I Tract (the Development) in Bexar County Texas as more particularly described by metes and bounds and in the accompanying preliminary Master Development Plan of the Development (the MDP) attached hereto as Exhibit A (which is subject to revisions from time to time required by the Developer or the City of San Antonio) incorporating a development plan of mixed land uses consisting of single family residential multi family residential and/or commercial development (as well as schools and/or churches) in general accordance with the MDP thereof submitted by Developer to (and to be hereinafter approved by) the City of San Antonio the Development being situated in northern Bexar County at a location at or near Canyon Golf Road at its proposed intersection with Borgfeld Road and projected to utilize up to 600 Equivalency Service Units (ESUs) of water service

WHEREAS Developer desires to obtain timely retail public water utility service for the Development through a state approved public water system in accordance with the Proposed Master Water Plan attached hereto as Exhibit B

WHEREAS BexarMet as an agency political subdivision and governmental entity of the State of Texas authorized by a Certificate of Convenience and Necessity (CCN) and other approvals issued by the Texas Commission on Environmental Quality (TCEQ) desires to commit to provide said retail public water utility service to the Development pursuant to its fees rates and tariffs and to provide certain credits to Developer for certain impact fees later described herein (Impact Fees) attributable to said ESUs based on Developer performing certain obligations prescribed herein

WHEREAS Developer desires to ensure that the various units or phases of the Development generally depicted on the MDP as it may be modified from time to time hereafter by the Developer (the Phases) are served timely by a reliable potable water supply and is willing to commit to dedicate certain necessary sites as shown on Exhibit C (Proposed Water

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Production Facility Sites) housing the Proposed Water Production Facilities described on Exhibit D and/or easements to BexarMet

WHEREAS Developer desires to ensure that the Development is capable of being served in accordance with Developer's development schedule by a reliable potable water supplier and is willing to pre pay Impact Fees for Phase I of the Development and dedicate certain necessary Proposed Water Production Facility Sites to BexarMet to further said assurance

SPECIFIC RECITALS CONCERNING INFRASTRUCTURAL REQUIREMENTS FOR DEVELOPMENT

WHEREAS the Developer desires to enter into this Agreement in order to facilitate the planning design and construction by BexarMet necessary for the completion of the necessary Proposed Water Production Facilities as identified in Exhibit D which will serve the Development and the coordination of such matters with BexarMet

WHEREAS the Development is located within BexarMet's Stone Oak/Hill Country Village/Timberwood Park Distribution System the Developer acknowledges that permanent potable water and fire protection service to the Development may require construction of Proposed Water Production Facilities by BexarMet Developer further acknowledges that it will be required to construct a series of water mains throughout the Development as part of the normal platting and improvements process associated with such Phases in accordance with BexarMet's then existing applicable standards requirements and procedures BexarMet's Utility Service Regulations (USR) and the City of San Antonio's Unified Development Code (UDC) as identified in the Developer's Engineering Report and as part of the Development's approved Master Water Plan

WHEREAS the parties hereto contemplate that the Developer may connect a maximum of 600 ESU's within the Development to BexarMet's distribution system

WHEREAS the Developer anticipates that the 600 ESU's will be platted and constructed over a ten year period with a projected development growth schedule as noted in Exhibit E

NOW THEREFORE FOR AND IN CONSIDERATION OF THESE PREMISES AND THE MUTUAL BENEFITS TO BE DERIVED BY THE PARTIES HERETO IT IS UNDERSTOOD CONTRACTED AND AGREED AS FOLLOWS

ARTICLE I

DEVELOPER PRE PAID IMPACT FEE CREDIT

1.01 Developer agrees to and shall pay over to BexarMet the non refundable cash sum of \$600,000.00 which BexarMet agrees to accept as pre payment of and as a credit against those Impact Fees for 600 ESU's within the Development that would ordinarily become payable by Developer to BexarMet at a later time Accordingly upon and after receipt of said amount

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BexarMet will and does by these presence make and grant to Developer an irrevocable impact fee credit in the total amount of \$600 000 00 in such increments as have been paid to BexarMet under section 1 02 and 1 03 below (the Impact Fee Credit) to be a credit against and in place and in lieu of payment for the Developer s Impact Fee for 600 ESU s within the Development

1 02 Developer agrees to and shall within sixty (60) days of the date of this Agreement pay over to BexarMet the non refundable cash sum of \$300 000 (Initial Impact Fee Credit) which BexarMet agrees to accept as the first partial pre payment of and as a credit against all of those Impact Fees for 600 ESU s within the Development The Development is depicted and shown on the MDP attached hereto as Exhibit A

1 03 Developer further agrees within ninety (90) days of the date of the first pre payment of the Initial Impact Fee Credit to pay over to BexarMet a second and additional \$300 000 (Second Impact Fee Credit) which BexarMet agrees to accept as the second payment of and as a credit against all of those Impact Fees for 600 ESU s within the Development

1 04 The Impact Fee Credits established in Articles 1 02 and 1 03 above may be assigned by Developer to Developer s affiliates or other assignees but only for credit against Impact Fees for certain ESU s lying and situated within the Development and only upon BexarMet having given express written consent to the assignment document Any attempted transfer and/or assignment of the whole or any portion of the Impact Fee Credit for use outside the boundaries of the Development without the express written consent of BexarMet to the assignment document shall render that assignment of the Impact Fee Credit null and void and of no further force and effect BexarMet and Developer agree that the prepayment of Impact Fees in the amount of \$600 000 00 reflects all obligations of Centrex for payment of 600 ESU s within the Development

1 05 The Impact Fee Credits identified in 1 02 and 1 03 above must be utilized wholly and solely by Developer or its assigns in the Development Any portion of the Impact Fee Credit not utilized within a ten (10) year period from the Effective Date of this Agreement will expire and cease to exist and BexarMet will be under no obligation whatsoever relative thereto and the Impact Fee Credit will be deemed fully satisfied and performed and in no case will the Impact Fee Credit be refunded or available to be utilized by Developer or Developer s assignees thereafter The Developer acknowledges that recordation of this Agreement in the Real Property Records of Bexar County Texas within twelve (12) months of the Effective Date of this Agreement is required Developer shall record the Agreement and supply BexarMet with a recorded copy The Developer shall maintain records of ESU s remaining on the Development pursuant to the Developer s Master Development Plan approved by BexarMet Developer shall provide BexarMet with such records upon BexarMet s written request Developer further agrees to defend indemnify and hold harmless BexarMet and its successor and assigns from the claims of third parties arising out of Developer s assignment of Impact Fee Credits or Developer s assignment of any remaining guaranteed capacity earned pursuant to this Agreement to Developer s subsequent purchasers successors and assigns

1 06 The Impact Fee Credits identified in 1 02 and 1 03 above cannot be used in lieu of cash payment for ESU s situated in any property outside of the Development without BexarMet s written consent Developer agrees to provide written confirmation to BexarMet of all assignments under this agreement within thirty (30) days after the assignment is made

1 07 Developer acknowledges that its \$600 000 00 in Impact Fee Credits shall not be a credit against or in place and in lieu of payment for any Water Development Fee per each ESU for each Phase and the whole of the Development in an amount approved and adopted by the BexarMet Board of Directors as such Water Development Fee exists and is in effect at the time BexarMet approves the plat for that Phase of the Development

ARTICLE II

DEVELOPER S IMPACT FEE PAYMENTS

2 01 Developer agrees that it will pay BexarMet additional Impact Fees for the Development if the Development exceeds 600 ESUs Developer will pay these additional BexarMet Impact Fees for the number of ESUs designated for each Phase of the Development at the time BexarMet approves the plat for that Phase of the Development Developer acknowledges that BexarMet s Impact Fees have been approved by the TCEQ and are adjusted by BexarMet s Board of Directors from time to time in accordance with TCEQ requirements and are subject to change at any time without notice Developer shall pay the Impact Fee amount for all ESU s above 600 ESU s within the Development in effect at the time BexarMet approves the plat for that Phase of the Development

ARTICLE III

DEVELOPER S SYSTEM CONSTRUCTION DEDICATION OBLIGATIONS AND PAYMENT OF WATER DEVELOPMENT FEE

3 01 Developer contracts and agrees that at Developer s sole cost and expense Developer will design engineer and construct the transmission lines distribution system and the approach mains or mains for the Development (also referred to herein as the System) as depicted in the Proposed Master Water Plan attached hereto as Exhibit B

3 02 Developer will construct the System to meet or exceed all TCEQ BexarMet and other appropriate governmental regulatory requirements procedures and standards applicable at the time that construction begins and in accordance with final plans and specifications (Final Plans) that have been prepared by the Developer s Engineer and that have been approved by BexarMet in accordance with BexarMet s then existing applicable standards requirements and procedures BexarMet s USB and the UDC

3 03 Developer will cause the Development and the System to comply with the platting requirements of BexarMet and the governmental authority or authorities having platting jurisdiction over the Development as those requirements exist on the date of submission of the

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plat for BexarMet's approval. Without further compensation, reimbursement or consideration and concurrently with BexarMet's acceptance of the System, Developer will dedicate the System to BexarMet free and clear of liens, encumbrances, reservations and/or restrictions.

3.04 Developer will grant and convey to BexarMet in fee simple, free and clear of liens, encumbrances, reservations and/or restrictions, all easements, tank sites, pump sites, booster pump sites, sanitary easements and right of ways within and for the Development as specified in the BexarMet approved Final Plans. Conveyance of the above is limited to the Development as shown on the MDP attached hereto as Exhibit A and is subject to Section 9.12 herein. Also, if required by BexarMet, Developer will likewise dedicate and convey in fee simple, free and clear of all liens, encumbrances, reservations and/or restrictions, the site(s) in the Development shown as the Proposed Water Production Facility Sites as generally described on Exhibit B and as more particularly described on Exhibit C for the purpose of BexarMet's proposed future construction of water production facilities (the Proposed Water Production Facility Sites). Reimbursement, if any, for the Proposed Water Production Facility Sites by BexarMet to Developer will be determined by and in accordance with BexarMet's then existing applicable policies, standards, requirements and procedures and BexarMet's USR at the time Developer grants, conveys and dedicates the Proposed Water Production Facility Sites to BexarMet. Reimbursement, if any, shall be in the form of impact fee credits for the dollar amount to be a credit against and in place and in lieu of payment for the Developer's Impact Fees within BexarMet's certificated areas that may be pursued by Centex Homes, Inc. In the event Developer exceeds its projected 600 ESUs by 100 ESUs (700 ESUs) in the Development, Developer shall grant, convey and dedicate mutually agreeable additional Water Production Facility Sites to BexarMet.

3.05 The dedications required herein shall be made by dedication on a recorded plat and that said Proposed Water Production Facility Sites will be conveyed by Special Warranty Deed. The Proposed Water Production Facility Sites is generally located as noted in Exhibit C, subject to final coordination and mutual approval by BexarMet and Developer. The Developer agrees to complete platting of the Proposed Water Production Facility Sites within three (3) years of the date of this agreement or in conjunction with the platting of adjacent property, whichever occurs first.

3.06 The Developer hereby agrees to submit the following documents prior to or contemporaneously with the execution of this Agreement: Developer's Master Development Plan (Exhibit A), legal description to include metes and bounds of the site(s) dedicated to BexarMet for Proposed Water Production Facilities (Exhibit C), Developer Utility Layout, Conservation Plan and Engineering Report. The parties agree that such documents are included instruments to this Agreement and/or will be incorporated herein by reference. The submittal of such documents is a condition precedent to plat recordation and initial utility service. Developer shall modify such documents as may be required by the BexarMet.

3.07 The Developer shall submit a Proposed Master Water Plan attached hereto as Exhibit B or any amendments thereto for the entire Development to BexarMet for its review.

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and approval. The final Master Water Plan shall be submitted before the first construction phase is submitted for plat approval. The Master Water Plan (Proposed and final) shall show the location of all water mains, development phases or units including the sequence and a timetable for build out. The Developer shall also provide BexarMet with a digital version of the proposed recorded plat for each Phase of the Development as submitted for plat recordation in a format acceptable to BexarMet.

3.08 Upon the Effective Date of this Agreement, the Developer has eighteen (18) months to thereafter complete the Master Water Plan and to start construction. Developer understands and agrees that if Developer fails to perform these requirements within the (18) month period, this Agreement shall expire and a request for a new agreement must be submitted to BexarMet. BexarMet may enter into a new Utility Service Agreement based on then current regulations. In the event Developer meets this requirement, this Agreement shall remain in effect for ten (10) years from the Effective Date.

3.09 The Developer agrees to review preliminary designs annually with BexarMet.

3.10 Developer shall be required to pay a Water Development Fee per each ESU for each Phase and the whole of the Development in the amount approved and adopted by the BexarMet Board of Directors as such Water Development Fee exists and is in effect on the date of submission of the plat for that phase of the Development for BexarMet's approval.

ARTICLE IV

BEXARMET'S OBLIGATIONS DURING DEVELOPER CONSTRUCTION

4.01 BexarMet agrees that it will closely coordinate with the Developer's Engineer during the design of the System, provide appropriate reviews and approvals of submitted plans, permit requests, and related matters to facilitate construction.

ARTICLE V

BEXARMET'S CONSTRUCTION OBLIGATIONS

5.01 BexarMet covenants and agrees that at BexarMet's sole cost and expense, BexarMet will commit to design, engineer, and construct certain water production, Wells, storage, and pumping facilities (also referred to herein as Proposed Water Production Facilities) necessary for the proposed 600 ESUs of water service for the Development. However, BexarMet reserves the right to retain any outside engineering firm(s) or outside contractor(s) to design, engineer, and construct the Proposed Water Production Facilities or to provide the guaranteed capacity for up to the 600 ESUs of the Development by any other means.

5.02 Subject to Section 5.01 above, BexarMet will construct the Water Production Facilities to meet or exceed TCEQ, BexarMet, and other appropriate governmental regulatory requirements, procedures, and standards applicable at the time that construction begins, and in

accordance with final plans and specifications that have been prepared by the BexarMet s Engineer and that have been approved by BexarMet in accordance with BexarMet s then existing applicable standards requirements and procedures USR and the UDC

5 03 BexarMet agrees to commit a minimum of 200 ESU s for use within the Development upon receipt of the first Initial Impact Fee Credit payment of \$300 000 00 It also commits to providing the balance of the capacity for the remaining 400 ESU s within eighteen (18) months of the date of this Agreement provided however that said eighteen (18) month schedule can be changed upon mutual agreement of the parties in writing

ARTICLE VI

EACH PARTIES REGULATORY OBLIGATIONS

6 01 Each party agrees to timely apply for and diligently pursue procure and maintain all licenses permits authorizations certificates and approvals required by any other appropriate governmental and/or regulatory bodies having jurisdiction over any part of the obligations of that party herein and that party s ability or authority to perform same

ARTICLE VII

BEXARMET S ACCEPTANCE AND SERVICE OBLIGATIONS

7 01 Subject to Developer s full performance of all of the terms stipulations and conditions hereof especially including but not by way of limitation those matters contained in Articles I II and III hereof BexarMet contracts and agrees to complete its Construction Obligations and/or guaranteed capacity for 600 ESU s in the Development and to accept the ownership of the completed System within the scope and purview hereof and to provide the Development with potable water and fire protection service in accordance with applicable provisions of the *Texas Water Code* TCEQ requirements BexarMet s CCN and the standards stated in this Agreement SAVE AND EXCEPT however BexarMet shall not have the obligation to accept the System for ownership and/or serve any Phase of the Development unless all Impact Fees attributable to that Phase are paid (either by a cash payment or the application of all or a portion of the permitted Impact Fee Credit described in Article I herein) and received by BexarMet at the time BexarMet approves the platting of that Phase

7 02 Developer understands that any capacity in water facilities resulting from this Agreement for the Development may be utilized by BexarMet for other tracts outside the boundaries of the Development receiving service from BexarMet BexarMet shall keep accurate records regarding the Developer s capacity either reserved capacity or guaranteed capacity pursuant to the Agreement for the Development Developer or its assigns will not be denied capacity as a result of BexarMet s utilization of such capacity for another tract outside the boundaries of the Development

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ARTICLE VIII

BEXARMET BOARD S RATIFICATION

8 01 This Agreement is subject to ratification by the Board of Directors of BexarMet. Such ratification will be promptly communicated by BexarMet to Developer in writing.

ARTICLE IX

MISCELLANEOUS

9 01 This Agreement and the rights, obligations and liabilities created hereunder shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto, but no rights, obligations or liabilities hereunder shall be assignable or delegable by the Developer without the prior written consent of BexarMet. BexarMet may assign or delegate the rights, obligations or liabilities created hereunder to its successor in interest without the consent of the Developer.

9 02 Notwithstanding anything to the contrary contained in this Agreement, this Agreement is not intended to, and shall not, create any rights in or confer any benefits upon any person other than the parties hereto, and it shall not be construed to be a contract for the benefit of a third party.

9 03 Notwithstanding anything herein to the contrary implied, BexarMet's Impact Fees have been approved by the TCEQ and are adjusted by BexarMet's Board of Directors from time to time and are subject to change by the TCEQ and/or BexarMet's Board of Directors at any time without notice. Impact Fee Payments and Impact Fee Credits may only be applied at the time BexarMet approves the plat and are credited against Impact Fees as approved by the TCEQ and adjusted by BexarMet's Board of Directors from time to time that are in effect and due at the time BexarMet approves the plat.

9 04 Notwithstanding anything herein to the contrary implied, BexarMet's Water Development Fee has been approved and adopted by the BexarMet Board of Directors and is adjusted by the BexarMet Board of Directors from time to time and is subject to change at any time without notice and is due at the time BexarMet approves the plat.

9 05 All attachments, appendices, schedules and exhibits to this Agreement constitute integral parts of this Agreement and are incorporated into and made a part of this Agreement by this reference for all purposes.

9 06 This Agreement will be governed by and construed in accordance with the laws of the State of Texas. Proper venue for any dispute or litigation shall be only in Bexar County, Texas.

9 07 Nothing contained in this Agreement is intended by the parties to create any form

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of joint venture or partnership and any implication to the contrary is hereby expressly disavowed by both parties. It is understood and agreed that this Agreement does not create a joint enterprise of any kind.

9.08 This Agreement between these parties constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreement.

9.09 Both parties agree that if either party should default on any of the conditions and covenants hereunder or should threaten to do so or if it be necessary for any reason for either to hire or retain an attorney to represent it in connection with this Agreement, the party found to be responsible for said default agrees to pay to the prevailing party a reasonable amount for the prevailing party's reasonable costs, litigation expenses and attorney's fees.

9.10 Notwithstanding anything herein to the contrary contained, it is understood and agreed (i) that the level of standards required by BexarMet for the construction of the System are strictly for the benefit of BexarMet only and the Developer is free at Developer's sole cost and expense to design and construct the System to a higher standard and (ii) that all BexarMet approvals of the Developer's and the Developer's registered professional engineer's plans and specifications and all inspections done by BexarMet of the plans, specifications and construction of the System are strictly for the benefit of BexarMet and such inspections are not to be expressly or impliedly relied upon by Developer, Developer's Engineer or any of Developer's contractors or subcontractors for any purpose whatsoever.

9.11 The Development's Estimated Growth Projections are shown on Exhibit E attached hereto. Such numbers are estimated projections only and are subject to change.

9.12 Developer must pay for its own distribution system and for all water mains to serve the Development. BexarMet may require the installation of oversized water mains and related facilities for the System and BexarMet's requirements for oversizing are included in the Special Conditions to this Agreement (if applicable). BexarMet will execute a trilateral contract with Developer and a contractor for the construction of all oversized facilities. All oversized facilities must be competitively bid in coordination with BexarMet. BexarMet will reimburse the Developer for the oversize construction cost differential upon completion of the approved System and BexarMet's acceptance of such System. BexarMet will provide such reimbursement in the form of a cash reimbursement. BexarMet will reimburse the Developer for the cost of additional real property needed and/or required to accommodate the oversizing of the facilities in the form of a cash reimbursement. BexarMet shall determine the need to obtain additional real property for any oversizing within twenty-four (24) months or at the time the Development is platted, whichever occurs first, and shall immediately notify Developer of BexarMet's intention to obtain the additional real property. All oversizing shall be done in accordance with BexarMet's applicable standards, requirements, procedures and USR.

9.13 Notwithstanding anything to the contrary herein contained or referred to, BexarMet will not require recordation of a restrictive covenant covering the Development.

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regarding enforcement of the City of San Antonio's Industrial Waste Ordinance

9.14 Any notice demand or other communication required to be given or to be served upon any party under this Agreement shall be in writing and delivered to the person to whom the notice is directed either (i) in person with confirmation (ii) by United States Mail as a registered or certified item with return receipt required (iii) delivered by delivery service (including any express mail or overnight delivery service) or (iv) by confirmed facsimile.

Notices demands or other communications delivered by mail shall be deemed given and received when deposited in a post office or other depository under the care or custody of the United States Postal Service enclosed in a wrapper addressed properly with proper postage affixed. Any notice demand or other communication given other than by certified or registered mail return receipt requested shall be deemed to have been given and received when delivered to the address of the party to whom it is addressed as stated below.

If to BexarMet

Bexar Metropolitan Water District
P O Box 245994
San Antonio Texas 78224
Attn: Mr. Gilbert Olivares General Manager
Facsimile No (210) 922 5152

With a Contemporaneous Copy to

Adolfo Ruiz
General Counsel
Bexar Metropolitan Water District
P O Box 245994
San Antonio Texas 78224
Facsimile No (210) 922 5152

If to Developer

Centex Homes
1354 N E Loop 1604 Suite 108
San Antonio Texas 78232
Attn: Mr. Trey Marsh P E
Facsimile No (210) 496 0449

With a Contemporaneous Copy to

Pape Dawson Engineers Inc
555 East Ramsey
San Antonio Texas 78216
Attn: Mr. Rick Wood P E

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Facsimile No (210) 375 9010

Any party hereto may change its address or facsimile number for notice by giving the other parties three days advance written notice of such change of address or facsimile number

Signed and entered into as of the 2nd day of March 2006 (the Effective Date)

BEXARMET

BEXAR METROPOLITAN WATER DISTRICT

By

[Signature]
Name F Gilbert Olivares

Title General Manager

As per Board Approval on January 30 2006

As per Board Ratification on February 27 2006

CENTEX HOMES Inc

By

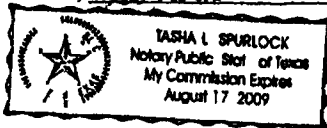
[Signature]
Name Damon Lyles

Title Division President

STATE OF TEXAS)

COUNTY OF BEXAR)

The foregoing instrument was acknowledged before me on the 2nd day of March, 2006 by F Gilbert Olivares, General Manager of Bexar Metropolitan Water District



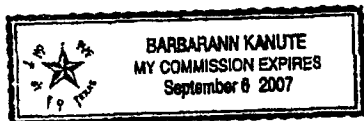
[Signature]
Notary Public State of Texas

Notary's Name Printed Tasha L. Spurlock
My Commission Expires 8/17/09

STATE OF TEXAS)

COUNTY OF BEXAR)

The foregoing instrument was acknowledged before me on the 2nd day of March, 2006 by Damon Lyles, Division President of Centex Homes and as part of the Real Estate Contract to be performed on behalf of the parties as manager of the Friesenhahn I Tract - USA



[Signature]
Notary Public State of Texas

Notary Name Printed BARBARANN KANUTE
My Commission Expires 09/06/07

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EXHIBIT A
to Utility Services Agreement (Water)
between
Bexar Metropolitan Water District and
Centex Homes Inc

MASTER DEVELOPMENT PLAN (approximately 94 acres)

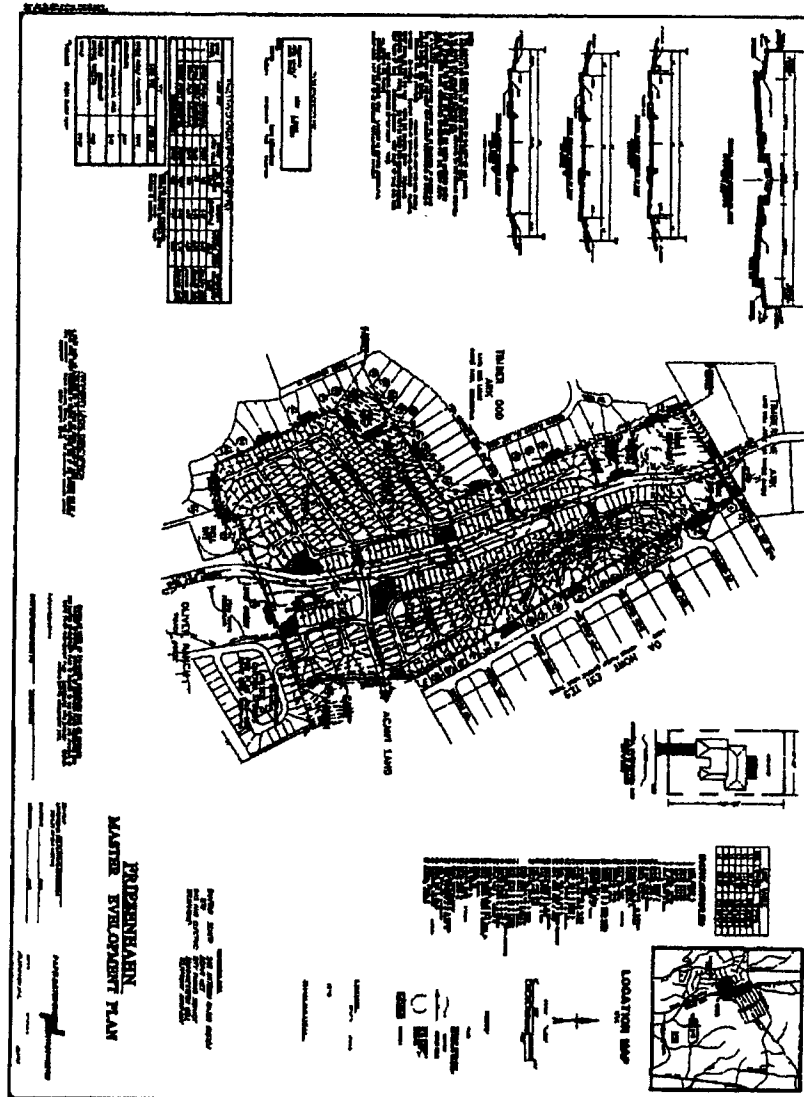
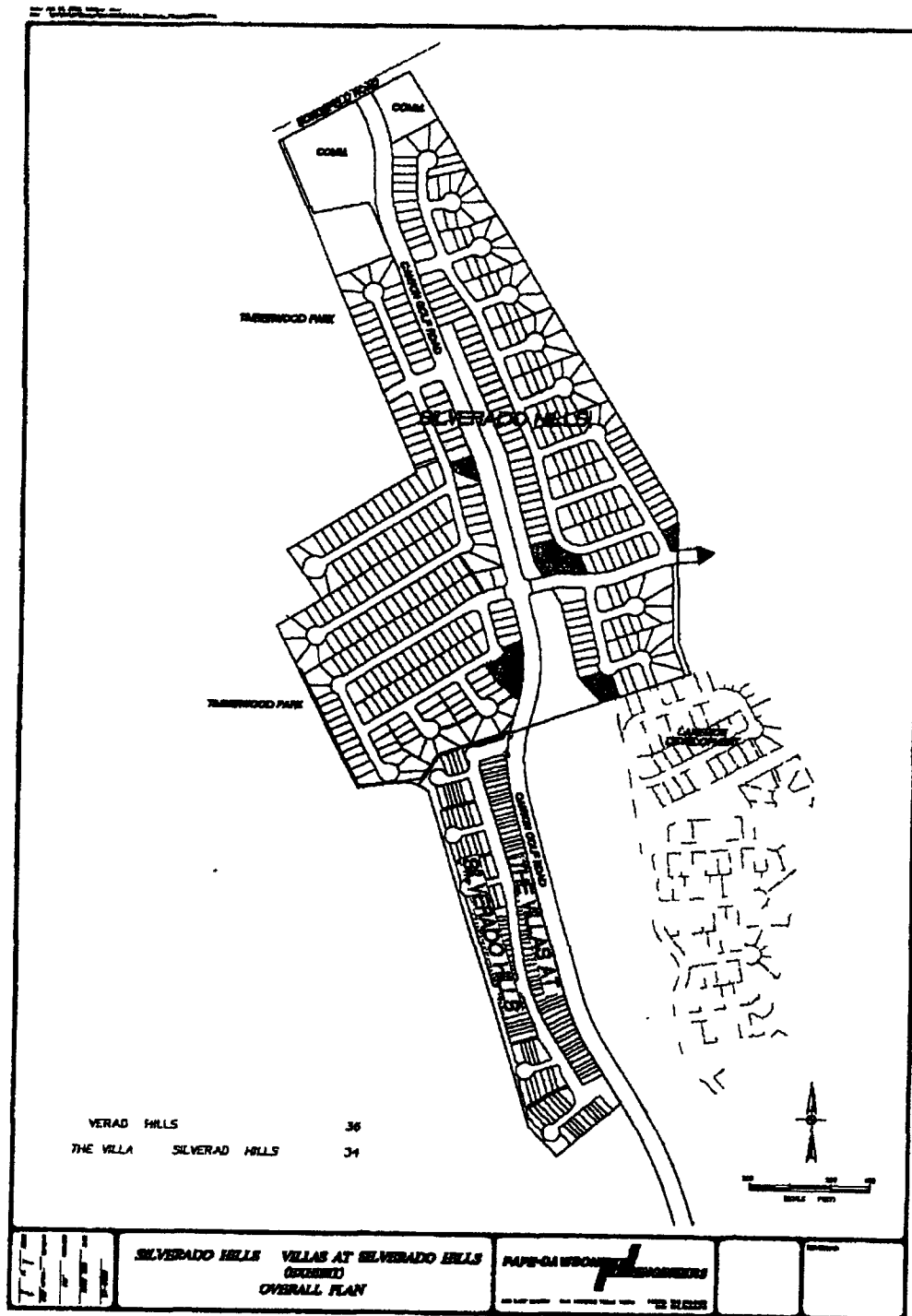


EXHIBIT A Page 2



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PROPOSED MASTER WATER PLAN

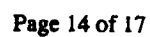
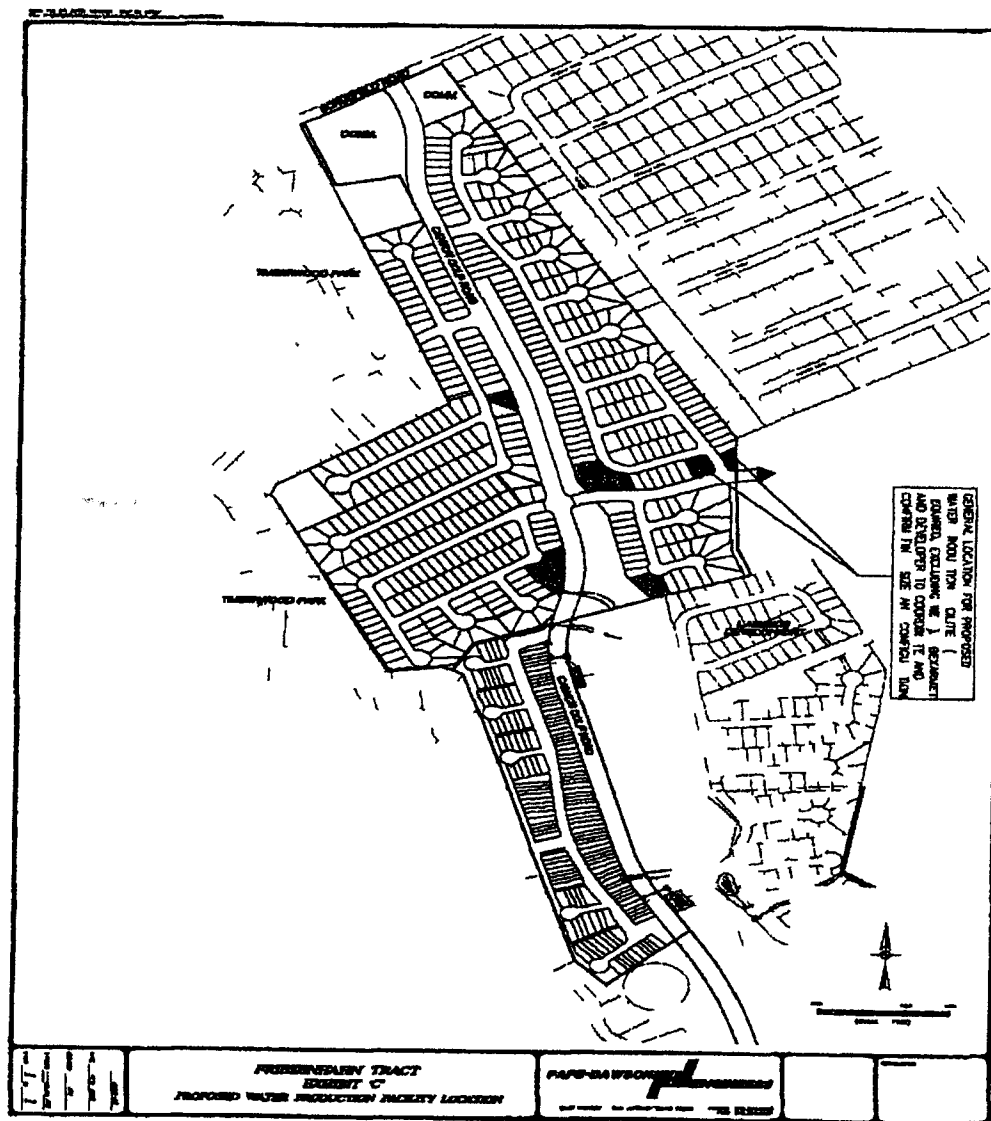


EXHIBIT C
to Utility Services Agreement (Water)
between
Bexar Metropolitan Water District and
Centex Homes Inc

DESCRIPTION OF PROPOSED WATER PRODUCTION FACILITY SITES



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EXHIBIT D
to Utility Services Agreement (Water)
between
Bexar Metropolitan Water District and
Centex Homes Inc

DESCRIPTION OF ESTIMATED PROPOSED WATER PRODUCTION FACILITIES

- 1 Two (2) or more water wells providing 400 GPM
- 2 One (1) ground storage tank of a minimum 1 million gallons
- 3 One (1) high service pump station providing a minimum capacity of 3 000 GPM with ability to add an additional pump
- 4 Generator Type 250 KW (One or more)
- 5 Related electrical controls backup power supply equipment drives parking areas and fencing
- 6 One (1) hydro pneumatic tank of minimum 15 000 gallons
- 7 Estimated 1 000 feet of 12 24 DI Pipe within the proposed water production facility sites with appropriate valves fittings and appurtenances and
- 8 Electric Power 3 Phase

Design of Facilities reflects storage requirements of 320 gal/ESU per BexarMet

EXHIBIT E
to Utility Services Agreement (Water)
between
Bexar Metropolitan Water District and
Centex Homes Inc

DEVELOPMENT WATER SERVICE GROWTH PROJECTIONS

Date/Year	Estimated Number Of Connections
June 1 2006	50
June 1 2007	175
June 1 2008	300
June 1 2009	425
June 1 2010	550
June 1 2011	600

RECORDER'S MEMORANDUM
AT THE TIME OF RECORDATION, THIS
INSTRUMENT WAS FOUND TO BE INADEQUATE
FOR THE BEST PHOTOGRAPHIC REPRODUCTION
BECAUSE OF ILLEGIBILITY CARBON OR
PHOTO COPY DISCOLORED PAPER ETC

Any provision hereinafter which restricts the sale, or use of the described real
property because of race is hereby declared unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby certify that this instrument was FILED in File Number Sequence on
the date and at the time stamped herein by me and was duly RECORDED
in the Official Public Record of Real Property of Bexar County, Texas as

MAR 16 2006



Gerry Rickhoff
COUNTY CLERK BEXAR COUNTY TEXAS

D # 20060058703 F \$80.00
03/16/2006 11:07AM # Pg 17
Filed & Recorded with Official Public
Record of BEXAR COUNTY
GERRY RICKHOFF COUNTY CLERK

Friesenhahn I Tract - USA

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EXHIBIT 27



BEXAR APPRAISAL DISTRICT

Michael A. Amezcua
Chief Appraiser

411 N. Frio P.O. Box 830248
San Antonio, TX 78283-0248
Phone (210) 224-8511
Fax (210) 242-2451

BOARD OF DIRECTORS

KEITH HUGHEY
Chairman
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Vice Chairman
BETTY LEFLORE
Secretary

AARON VALENZUELA
HELEN DUTMER

SYLVIA S. ROMO, CPA, RTA

September 7, 2005

Stephanie Hoffman
322 Martinez St.
San Antonio, TX 78205

Re: Bitterblue

Dear Ms. Hoffman:

This letter is in response to your open records request to Bexar Appraisal District in which you request:

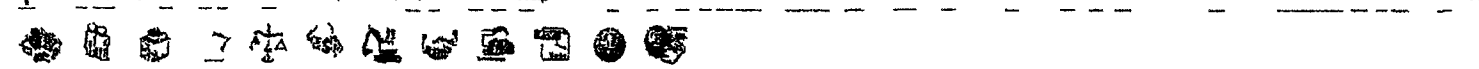
A letter either certified or on Bexar Appraisal District letterhead stating that accounts 989078, 562098, and 829884 are as of today's date the only properties listed for Bitterblue.

The Bexar Appraisal District has reviewed your request and found after performing a property search by the owner name of Bitterblue only the three accounts you referenced in your request. This information is based on a property search performed on September 7, 2005 using the Bexar Appraisal District's website and online system PACS.

Please contact me at (210) 242-2501 if you have any questions or require additional information.

Sincerely,

Barbara M. Adan
Records Management Officer



ID	Typ	T B Y	HS	St	Add ss	Leg I	GEO ID
20 5 162088	R				BITTERBLUE INC	NCB 14962 P-11C 41 S 574	14862-000-0449
2005 829884	P	I			BITTERBLUE INC		
20 5 907	R	I			BITTERBLUE/TWO CREEKS		
					11 LYNN BATTIS 100 SAN ANTONIO TX 78218 3017	BITTERBLUE INC 000011 00 LYNN BATTIS FURN FIXT EQPT VEH SUP	90205 335 9400
					ERNE STAGE TX	CB 47 2 P 3B ABS 598 (OUT OF P 3A)	04712 000 00 1

EXHIBIT 28