

**Table - Southeast Region**

<b>System/Subdivision Name</b>	<b>Permit No.</b>	<b>County</b>
Blazer Business Park (Brittmoore)		Harris
Brittmoore I & II	WQ11193	Harris
Brittmoore III	WQ14117	Harris
Brushy Creek	WQ12898	Montgomery
Candlelight Hills	WQ11314	Harris
Candlelight Service		Harris
Cedar Point	WQ12454	Polk
Classic Pines Subdivision	WQ13870	Harris
Country Club Green		Harris
Country Side Estates	WQ11249	Jefferson
Creek Side Estates South	WQ11375	Harris
Decker Woods		Montgomery
Estates of Willow Creek	WQ14181	Harris
Hahls Suburban Farms (Brittmoore)		Harris
Harcourt Farms (Brittmoore)		Harris
Heron Lakes	WQ13433	Harris
Imperial Valley	WQ14106	Harris
Independence Farms (Brittmoore)		Harris
Independence Gardens (Brittmoore)		Harris
Industrial Utilities Services, Inc.	WQ12122	Harris
Jersey Acres (Brittmoore)		Harris
Lake Conroe Forest Subdivision	WQ14357	Montgomery
Lake Conroe Forest - Tejas Creek		Montgomery
Lake Conroe Village	WQ14081	Montgomery
Lake Livingston Village	WQ13209	Polk
Lakes of Mission Grove	WQ14243	Fort Bend
N W Business Park (Brittmoore)		Harris
Niagra Subdivision (Astro Commercial)	WQ13600	Fort Bend
Oakwood Village	WQ12303	Harris
Old Egypt	WQ14141	Montgomery
Palm Crest	WQ14279	Brazoria
Petro Park & PAR (Brittmoore)		Harris
***Pine Trails Subdivision	WQ11701	Harris***
Port Adventure	WQ14096	Trinity
Redwood Estates MHP	WQ12996	Harris
Riverwood Forest	WQ14194	Fort Bend
Rosemeadows III	WQ14175	Fort Bend
Shadow Bay	WQ11419	Montgomery
Stable Gates	WQ14032	Harris
Tanner Heights (Brittmoore)		Harris

Table - Southeast Region (Cont.)		
System/Subdivision Name	Permit No.	County
Timberloch Estates	WQ14007	Montgomery
Timberwild	WQ12519	Harris
West by Northwest Industrial Park (Brittmoore)	WQ12222	Harris
Westwood I & II Subdvision	WQ 0011419-001	Montgomery
White Oak Ranch	WQ14114	Montgomery
Willow Oaks MHP	WQ13619	Harris
Woodland Ranch		Montgomery

**\*\*\*Note:** Pine Trails has different rates as by settlement agreement.

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Flat Rate</u>
5/8" or 3/4"	<u>\$63.80</u> (Includes 0 gallons)
1"	<u>\$159.49</u>
1½ "	<u>\$318.99</u>
2"	<u>\$510.38</u>
3"	<u>\$1,020.76</u>
4"	<u>\$1,594.93</u>
6"	<u>\$3,189.87</u>
8"	<u>\$5,103.79</u>
10"	<u>\$7,337.00</u>

**Rate Case Expense Surcharge:** \$2.50 per month per connection for each water and sewer customers for 24 months or until the total amount of \$2,751,170.50 is collected, whichever comes first, starting December 7, 2011.

**Deferred Expense Surcharge:** \$9.94 per month per connection for each water and sewer customers for 24 months or until the total amount of \$10,946,000.00 is collected, whichever comes first, starting December 7, 2011.

**Non-residential customers who purchase sewer service only and who have no reliable water consumption data available will be charged the applicable monthly fee for their meter size multiplied by 1.69. If a water meter is not available, a meter size will be imputed by the utility based upon the size of the water service pipe.**

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

Cash X (If in Person), Check X, Money Order X, Credit Card \_\_\_\_\_, Other (specify) \_\_\_\_\_  
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

REGULATORY ASSESSMENT ..... 1.0%  
TCEQ RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

RATES LISTED ARE EFFECTIVE ONLY  
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SECTION 1.0 -- RATE SCHEDULE (Continued)

Section 1.02 - Miscellaneous Fees

TAP FEE ..... \$650.00

TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Unique costs) ..... Actual Cost  
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large meter) ..... Actual Cost  
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEE ..... Actual Relocation Cost, Not to Exceed Tap Fee  
THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

METER TEST FEE ..... \$25.00  
THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

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

- a) Non payment of bill (Maximum \$25.00) ..... \$25.00
- b) Customer's request that service be disconnected ..... \$45.00

SEASONAL RECONNECTION FEE  
BASE RATE FOR METER SIZE TIMES NUMBER OF MONTHS OFF SYSTEM NOT TO EXCEED SIX MONTHS WHEN LEAVE AND RETURN WITHIN A TWELVE MONTH PERIOD.

TRANSFER FEE ..... \$45.00  
THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

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SECTION 1.0 -- RATE SCHEDULE (Continued)

~~LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL).....~~ 10%  
TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE..... \$25.00  
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)..... \$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT ..... 1/6TH OF ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE:

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

LINE EXTENSION AND CONSTRUCTION CHARGES:

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

PURCHASED WATER AND/OR DISTRICT FEE PASS THROUGH CLAUSE:

Changes in fees imposed by any non-affiliated third party water supplier or underground water district having jurisdiction over the Utility shall be passed through to only the water system(s) affected by the increase or fee as an adjustment to the water gallonage charge according to the following formula:

$AG = G + B/(1-L)$ , where

AG = adjusted gallonage charge, rounded to the nearest one cent;

G = approved gallonage charge (per 1,000 gallons);

B = change in purchased water/district gallonage charge (per 1,000 gallons);

L = system average line loss for preceding 12 months not to exceed 0.15

Charges shall be passed on to flat rate customers by imputing 5,000 gallons monthly wastewater generation and increasing the monthly flat rate according to the following formula:

$AMR = MR + (B \times 5)$ , where

AMR = adjusted monthly flat rate, rounded to the nearest one cent;

MR = approved monthly flat rate;

B = change in purchased wastewater treatment charge (per 1,000 gallons)

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## SECTION 2.0--SERVICE RULES AND REGULATIONS

### Section 2.01--Texas Commission On Environmental Quality Rules

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

### Section 2.02--Application for and Provision of Sewer Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff) and will be signed by the applicant before sewer service is provided by the utility. A separate application or contract will be made for each service at each separate location.

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

Where service has previously been provided, the utility will reconnect the service within one working day after the applicant has met the requirements for reconnection.

The customer will be responsible for furnishing and laying the necessary customer service pipe from the connection location to the place of use.

### Section 2.03--Refusal of Service

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

### Section 2.04--Customer Deposits

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

**SECTION 2.0--SERVICE RULES AND REGULATIONS (CONT.)**

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

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

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

Section 2.05--Meter Requirements, Readings, and Testing

It is not a requirement that the utility use meters to measure the quantity of sewage disposed of by individual customers. One connection is required for each residential, commercial or industrial facility in accordance with the TCEQ Rules.

Section 2.06--Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of the bills for utility service will be at least twenty-one (21) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next work day after the due date.

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

Each bill will provide all information required by the TCEQ Rules. For each of the systems it operates, the utility will maintain and note on the monthly billing a telephone number (or numbers) which may be reached by a local call by customers. At the utility's option, a toll-free telephone number or the equivalent may be provided.

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

SECTION 2.0--SERVICE RULES AND REGULATIONS (CONT.)

Section 2.07--Service Disconnection

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

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 31 days from the date of issuance of a bill and if proper notice of termination has been given.

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

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

Utility personnel must be available to collect payments and to reconnect service on the day of and the day after any disconnection of service unless service was disconnected at the customer's request or due to a hazardous condition.

Section 2.08--Reconnection of Service

Service will be reconnected within 36 hours after the past due bill and any other outstanding charges are paid or correction of the conditions which caused service to be disconnected.

Section 2.09--Service Interruptions

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

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



SECTION 2.0--SERVICE RULES AND REGULATIONS (CONT.)

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Section 2.10--Quality of Service

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

Section 2.11--Customer Complaints and Disputes

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

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

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**SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS**

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This section contains specific utility service rules in addition to the rules previously listed under Section 2.0. It must be reviewed and approved by the Commission and in compliance with the TCEQ Rules to be effective.

The utility adopts the administrative rules of the TCEQ, as the same may be amended from time to time, as its company specific service rules and regulations. These rules will be kept on file at the company's offices for customer inspection during regular business hours. In the event of a conflict between the TCEQ's amended rules and the provisions of this tariff, the amended rules shall prevail. Where necessary, any conflicting provision of this tariff shall be deemed to have been superseded by the TCEQ rule in question to the degree that the Utility may conduct its lawful business in conformance with all requirements of said rule.

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

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

Customer shall be liable for any damage or injury to utility-owned property or personnel shown to be caused by the customer, his invitees, his agents, his employees, or others directly under his control.

Limitation on Product/Service Liability. - The utility will not accept liability for any injury or damage to individuals or their property occurring on the customer's premises. The utility makes no representations or warranties (expressed or implied) that customer's appliances will not be damaged by disruptions of or fluctuations in sewer service whatever the cause. The utility will not accept liability for injuries or damages to persons or property due to disruption of sewer service caused by: (1) acts of God, (2) acts of third parties not subject to the control of the utility if the utility has undertaken such preventive measures as are required by TCEQ rules, (3) electrical power failures in sewer systems not required by TCEQ rule to have auxiliary power supplies, or (4) termination of sewer service pursuant to the utility's tariff and the TCEQ's rules.

If the services of a registered professional engineer are required as a result of an application for service received by the Utility for service to that applicant's service extension only, such engineer will be selected by the Utility and the applicant, and the applicant shall bear all expenses incurred therein.

SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS (CONT.)

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction (as may be allowed by TCEQ rule) for the actual costs of any additional facilities required to maintain compliance with the TCEQ minimum design criteria for sewer collection, treatment, pumping and discharge.

Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be entitled to a written explanation of such costs prior to payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall have the right to appeal such costs to the TCEQ or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property(ies) is located.

Tap fees may be increased by unique costs not normally incurred as may be permitted by 30 TAC 291.86(b)(1)(C).

The Utility adopts the Uniform Plumbing Code pursuant to TCEQ Rule 290.46(i). The piping and other equipment on the premises furnished by the customer will be maintained by the customer at all times in conformity with the requirements of the TCEQ, the Uniform Plumbing Code and with the service rules and regulations of the Utility. The customer will bring out his service line to his property line at the point on the customer's property mutually acceptable to the customer and the Utility subject to such requirements as may exist by TCEQ rule.

The utility will have the right of access to the customer's premises at all times reasonable for the purpose of installing, testing, inspecting or repairing sewer mains or other equipment used in connection with its provision of sewer service, or for the purpose of removing its property and disconnecting lines, and for all other purposes necessary to the operation of the utility system including inspecting the customer's plumbing for code, plumbing or tariff violations. The customer shall allow the utility and its personnel access to the customer's property to conduct any tests or inspections required by law. Unless necessary to respond to equipment failure, leak or other condition creating an immediate threat to public health and safety or the continued provision of adequate utility service to others, such entry upon the customer's property shall be during normal business hours. The customer may require any utility representative, employee, contractor, or agent seeking to make such entry identify themselves, their affiliation with the utility, and the purpose of their entry.

**SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS (CONT.)**

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Threats to or assaults upon utility personnel shall result in criminal prosecution.

Except in cases where the customer has a contract with the utility for reserve or auxiliary service, no other sewer service will be used by the customer on the same installation in conjunction with the utility's service, either by means of a cross-over valve or any other connection. Customer shall not connect, or allow any other person or party to connect, onto any sewer lines on his premises. Two places shall not be permitted to be supplied with one service pipe where there is a sewer main abutting the premises.

No application, agreement or contract for service may be assigned or transferred without the written consent of the utility.

It is agreed and understood that any and all sewer lines and other equipment furnished by the utility (excepting the customer's individual service lines from the point of connection to customer's structures on customer's premises) are and shall remain the sole property of the utility, and nothing contained herein or in a contract/application for service shall be construed to reflect a sale or transfer of any such lines or equipment to any customer. All tap and extension charges shall be for the privilege of connecting to said sewer lines and for installation, not purchase, of said lines.

Service applicants may be required to comply with any pre-condition to receiving service not printed herein as may exist under TCEQ rule (customer service, health and safety or environmental), USEPA rule, TWDB rule, local regulatory district rule or health department rule. Existing customer shall be required to comply with such rules, including modification of their plumbing and/or consumption patterns, after notice.

The disposal into the utility's sewer collection system of bulk quantities of food or food scraps not previously processed by a grinder or similar garbage disposal unit and grease and oils, except as incidental waste in process or wash water, used in or resulting from food preparation by sewer utility customers engaged in the preparation and/or processing of food for other than domestic consumption for sale to the public shall be prohibited. Specifically included in this prohibition are grease and oils from grease traps to other grease and/or oil storage containers. These substances are defined as "garbage" under Section 361.003 (12) of the Solid Waste Disposal Act, Texas Health and Safety Code, and are not "sewage" as defined by Section 26.001 (7) of the Texas Water Code. The utility only provides "sewage" collection and disposal service to the public. This service is limited to the collection, treatment and disposal of waterborne human waste and waste from domestic activities such as washing, bathing, and food preparation. This service does not include the collection, treatment or disposal of waste of such high BOD or TSS

SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS (CONT.)

characteristics that it cannot reasonably be processed by the utility's state-approved waste water treatment plant within the parameters of the utility's state and federal waste water discharge permits. **THIS SERVICE DOES NOT INCLUDE THE COLLECTION AND DISPOSAL OF STORM WATERS OR RUN OFF WATERS, WHICH MAY NOT BE DIVERTED INTO OR DRAINED INTO THE UTILITY'S COLLECTION SYSTEM.**

Pursuant to TCEQ Rule 291.87(n), the utility may charge for all labor, material, equipment, and other costs necessary to repair or replace all equipment damaged due to service diversion or the discharge of wastes which the system cannot properly treat. This shall include all repair and clean up costs associated with discharges of grease and oils, except as incidental waste in process or wash water, used in or resulting from food preparation by sewer utility customers engaged in the preparation and/or processing of food for other than domestic consumption or for sale to the public discharged from grease traps or other grease and/or oil storage containers. The utility may charge for all costs necessary to correct service diversion or unauthorized taps where there is no equipment damage, including incidents where service is reconnected without authority.

The utility may not charge any additional penalty or charge other than actual costs unless such penalty has been expressly approved by the regulatory authority having rate/tariff jurisdiction and filed in the utility's tariff.

Pursuant to TCEQ Rule 291.86(b)(3)(A) and (B), the customer's service line and appurtenances shall be construed in accordance with the laws and regulations of the State of Texas, local plumbing codes, or, in the absence of such local codes, the Uniform Plumbing Code. It shall be the customer's responsibility to maintain the service line and appurtenances in good operating condition, i.e., clear of obstruction, defects, or blockage.

If the utility can provide evidence of excessive infiltration or inflow or failure to provide proper pretreatment, the utility may, with the written approval of the TCEQ's executive director, require the customer to repair the line or eliminate the infiltration or inflow or take such actions necessary to correct the problem. If the customer fails to correct the problem within a reasonable time, the utility may disconnect service after proper notice.

In accordance with the requirements of Utility's Wastewater discharge Permit, any and all repairs and maintenance of Utility's lines, tanks, pumps and equipment located on Customer's premises shall be performed exclusively by the Utility.

**SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS (CONT.)**

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Copies of the utility's state and federal waste water discharge permits shall be available for public inspection and copying in the utility's business office during normal business hours.

Non-residential customers electing the pretreatment option for sewage with non-standard characteristics may be charged those costs set forth in the utility's extension policy if such pretreatment fails or otherwise causes the utility's facilities to violate their waste-water discharge permits.

**RESIDENTIAL SINGLE FAMILY GRINDER / SEWAGE STATIONS**

Prior to the installation of a grinder / sewage station, the utility must be given a complete listing of all materials and equipment that will be used.

In order to prevent inflow and infiltration, the materials must comply with standard specifications, approved by the TCEQ and the utility.

After the utility has approved the proposed grinder / sewage station, the construction may begin. Once the work has been completed, the utility will do an inspection of the grinder / sewage station to ensure the complete installation was as specified.

The customer will retain ownership of receiving tanks or lift stations on the customer's property, and all maintenance, repairs and replacement are the customer's responsibility. The customer shall own and maintain the grinder pump and appurtenances.

The repairs may be performed by anyone selected by the customer, who is competent to perform such repairs. The utility requires that parts and equipment meet the minimum standards approved by the TCEQ, to insure proper and efficient operation of the sewer system.

**MULTI-FAMILY AND COMMERCIAL RECEIVING TANK / LIFT STATIONS**

Prior to the installation of a grinder / sewage station, the utility must be given a complete listing of all materials and equipment that will be used, along with the storage for that development.

In order to minimize inflow and infiltration into the collection system, the installation and materials must comply with standard specifications approved by the TCEQ.

**SECTION 2.20 SPECIFIC UTILITY SERVICE RULES AND REGULATIONS (CONT.)**

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After the utility has approved the proposed grinder / sewage station, the construction may begin. Once the work has been completed, the utility will do an inspection of the grinder / sewage station to ensure the complete installation was as specified.

Prior to acceptance of an existing receiving tank or lift station that is being used as an interceptor tank for primary treatment, waste water storage or pump tanks prior to discharge into an alternative or conventional sewage system must be cleaned, inspected, repaired, modified, or replaced if necessary to minimize inflow and infiltration into the collection system.

Existing pumps and tanks must be of adequate size to insure proper pumpage in the event of high flow or if one pump is out of service. If the existing pumps and receiving tanks or lift stations are of inadequate size the utility will not accept liability for backups due to: high flows, one pump out of service, rainfall causing inflow or infiltration, power outages, lack of proper storage capacity, etc.

If the collection system that discharges into the receiving tank / lift station has an inflow or infiltration problem and collects rainfall discharge, the owner or P.O.A. will correct it within 90 days of written notice from the utility. If no action is taken to correct the problem within 90 days, the utility may take the responsibility to make corrections at the owner's / P.O.A.'s expense. The utility is not responsible for the collection system that discharges into the receiving tank / lift station.

The owner / P.O.A. shall be responsible for the monthly electric bill.

An adequate easement must encompass the receiving tank / lift station by a 15 foot radius and also a 15 foot access easement to the receiving tank / lift station site. If this easement does not exist, one must be created and filed of record.

**SECTION 3.0--EXTENSION POLICY**

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**Section 3.01--Standard Extension Requirements**

**LINE EXTENSION AND CONSTRUCTION CHARGES.** No contribution in aid of construction may be required of any customer except as provided for in this approved extension policy.

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

The utility will bear the full cost of any over sizing of collection mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional treatment capacity or facilities.

Contributions in aid of construction may not be required of individual residential customers for treatment capacity or collection facilities unless otherwise approved by the Commission under this specific extension policy.

**COST UTILITIES SHALL BEAR.** Within its certificate area, the utility will pay the cost of the first 200 feet of any sewer collection line necessary to extend service to an individual residential customer within a platted subdivision. However, if the residential customer requesting service purchased the property after the developer was notified of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Developers may be required to provide contributions in aid of construction in amounts to furnish the system with all facilities necessary to comply with the TCEQ's Rules.



**SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY**

This section contains the utility's specific extension policy which complies with the requirements already stated under Section 3.01. It must be reviewed and approved by the Commission and in compliance with TCEQ Rules to be effective.

Residential customers not covered under Section 3.01 will be charged the equivalent of the costs of extending service to their property from the nearest collection line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the full cost of extending service to and throughout their property, including the cost of all necessary treatment capacity necessary to meet the service demands anticipated to be created by that property.

Developers will be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with TCEQ's minimum design criteria for facilities used in collecting, treating, transmitting, and discharging of wastewater effluent. For purposes of this subsection, a developer is one who subdivides or requests more than two connections on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

The utility adopts the administrative rules of the TCEQ, as amended from time to time, as its company specific extension policy. These rules will be kept on file at the company's business office for customer inspection during normal business hours.

Non-residential customers generating sewage creating unique or non-standard treatment demands which might reasonably be expected to cause the utility's treatment facilities to operate outside their current waste-water discharge permit parameters may be charged the cost of all studies, engineering plans, permit costs, and collection treatment or discharge facilities construction or modification costs necessary to enable the utility to treat said sewage within permit limits acceptable to the TCEQ, EPA and other regulatory agencies. In the alternative, the customer may have the option of pre-treating said sewage in such a manner to that it may not reasonably be expected to cause the utility's facilities to operate outside their permit parameters. In such case, the customer shall be required to pay the utility's costs of evaluating such pretreatment processes and cost of obtaining regulatory approval of such pretreatment processes. In the event of the pretreatment facilities of a customer making this election fail and cause the utility's facilities to operate outside their permit parameters, the customer shall indemnify the utility for all costs incurred for clean ups or environmental remediation and all fines, penalties, and costs imposed by regulatory or judicial enforcement actions relating to such permit violations.

**SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)**

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Non-residential sewer customers producing water borne waste significantly different from waste generated by residential customers may be required to provide a suitable sampling point at the property line for testing the customer's waste for chemicals or substances, e.g., grease, oils, solvents, pesticides, etc., which can reasonably be believed to have an injurious effect on the Utility's plant and/or its ability to treat and dispose of such wastes within the parameters of the Utility's permit. Utility shall have reasonable access to the sampling point at all times.

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 30 TAC 291.86(d) and this tariff. When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge based upon the capacities of collection, transmission, storage, treatment and discharge facilities, compliant with the TCEQ minimum design criteria, which must be committed to such extension. As provided by 30 T.A.C. 291.86(d)(4), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

The imposition of additional extension costs or charges as provided by Sections 2.20 and 3.20 of this tariff shall be subject to appeal as provided in this tariff, TCEQ rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be entitled to a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall have the right to appeal such costs to the TCEQ or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located. Unless the TCEQ or other regulatory authority enters interlocutory orders to the contrary, service to the applicant may be delayed until such appeal is resolved.

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

SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)

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

The Utility is not required to extend service to any applicant outside of its certificated service area and will only do so, at the Utility's sole option, under terms and conditions mutually agreeable to the Utility and the applicant and upon extension of the Utility's certificated service area boundaries by the TCEQ. Service applicants may be required to bear the cost of the service area amendment.

A "qualified service applicant" is an applicant who has: (1) met all of the Utility's requirements of service contained in this tariff, TCEQ rules and/or TCEQ order, (2) has made all payments for tap fees and extension charges, (3) has provided all necessary easements and rights-of-way necessary to provide service to the requested location, including staking said easements or rights-of-way where necessary, and (4) has executed a customer service application for each location to which service is being requested.

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. The tap request must be accompanied with a plat, map, diagram or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the connection is to be installed, along the applicant's property line. The actual point of connection must be readily accessible to Utility personnel for inspection, servicing and testing while being reasonably secure from damage by vehicles and mowers. If the Utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the Utility's near service main with adequate capacity to service the applicant's full potential service demand.

If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the Utility. If no agreement on location can be made, applicant may refer the matter to the TCEQ for resolution. Unless otherwise ordered by the TCEQ, the tap or service connection will not be made until the location dispute is resolved.

**SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)**

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The Utility shall require a developer (as defined by TCEQ rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property. The Developer shall be required to obtain all necessary easements and rights-of-way required to extend the Utility's existing service facilities from their nearest point with adequate service capacity (as prescribed by TCEQ rules and local service conditions) to and throughout the Developer's property. The easements shall be sufficient to allow the construction, installation, repair, maintenance, testing, and replacement of any and all utility plant necessary to provide continuous and adequate service to each and every potential service location within the property at full occupancy. Unless otherwise restricted by law, sewage treatment, holding tank sites, lift station sites shall convey with all permanent easements and buffers required by TCEQ rules. Unless otherwise agreed to by the Utility, pipe line right-of-way easements must be at least 15 feet wide to allow adequate room to facilitate backhoe and other heavy equipment operation and meters.

Easements must be provided for all storage, treatment, pressurization and disposal sites which are sufficient to construct and maintain all weather roads as prescribed by TCEQ rules. All easements shall be evidenced, at Developer's expense, by recorded county-approved subdivision plat or by specific assignment supported by metes and bounds survey from a surveyor licensed by the State of Texas.

Prior to the extension of utility service to developers (as defined by TCEQ rules) or new subdivisions, the Developer shall comply with the following:

- (a) The Developer shall make a written request for service to property that is to be subdivided and developed. The Developer shall submit to the Utility a proposed plat on a scale of one inch (1") to two hundred feet (200') for review and determination of required easements, utility plant, and plant location. If sewer service is requested, the plat must contain elevation data. A reconcilable deposit in an amount set by the Utility may be required to cover preliminary engineering, legal and copy cost to be incurred by the Utility in reviewing and planning to meet this service request. The plat and/or accompanying information shall identify the type, location and number of houses and other planned structures that will be requiring utility service. If other than residential structures are to be located on the property, all other types of anticipated businesses and their service demands shall be identified with specificity. All areas requiring special irrigation and/or other unique water demands must be identified.

SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)

To the extent reasonably possible, this information must be precise so that adequate facilities can be designed and constructed to meet all future service demands without hazard to the public, other utility customers and/or the environment.

(b) After the requirements of easements and rights-of-way have been determined, a red line copy will be returned by the Utility to the Developer for final plat preparation.

(c) Copies of all proposed plats and plans must be submitted to the Utility prior to their submission to the county for approval to insure that they are compatible with the adequate long-term utility needs of potential service customers. Copies will be returned after review by the Utility so that necessary changes may be incorporated into the Developer's final submitted plat(s) and plans.

(d) The Utility shall be provided with three (3) certified copies of the final plat(s) approved by the County Commissioners Court. At this time, the Utility will begin engineering the facilities necessary to serve the property. Plans and specifications will be prepared and submitted to the TCEQ by the Utility if required by law. If further plat or plans changes are necessary to accommodate the specific service needs of the property and the anticipated customer demands, the Developer will be so notified. Plat amendments must be obtained by the Developer.

The Developer shall be notified when all required TCEQ or other governmental approvals or permits have been received. No construction of utility plant which requires prior TCEQ plans approval shall be commenced until that approval has been received by the Utility and any conditions imposed by the TCEQ in association with its approvals have been satisfied.

(e) The Developer shall be required to post bond or escrow the funds necessary to construct all required utility plant, except individual sewer connections, required to serve the property. Construction shall not commence until funds are available. If the construction is to be done in coordination with the phased development of the property, funds must be provided in advance which are sufficient to complete each phase. No phase or facilities for any phase shall be constructed prior to the bonding or escrowing of all funds associated with that phase.

(f) At the sole option of the Utility, the Developer may be required to execute a Developer Extension Contract setting forth all terms and conditions of extending service to their property including all contributions-in-aid of construction and developer reimbursements, if any.

SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)

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(g) The Utility may require the Developer to commence construction of subdivision improvements within three (3) months of utility plans approval or the Utility may abate its construction activities until full development construction begins. If the Developer stops construction of subdivision improvements for any purpose, the Utility may abate its construction for a similar period.

(h) As soon as the roads are rough cut and prior to paving, extension lines will need to be constructed at each road crossing. The Developer must notify the Utility sufficiently in advance of this development stage to allow for the necessary utility construction without disruption to other service operations of the Utility. Failure to provide adequate advance notice and cooperation in the construction of necessary utility plant may result in additional delays in obtaining service to the property. The Developer shall be required to pay for all additional costs of road boring or other remedial construction necessary to install adequate utility plant throughout the affected property.

Within its certificated area, the Utility shall bear the cost of the first 200 feet of any water main or sewer collection line necessary to extend service to an individual residential service applicant within a platted subdivision unless the Utility can document:

(a) that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the Utility's approved extension policy after receiving a written request from the Utility; or,

(b) that the Developer defaulted on the terms and conditions of a written agreement or contract existing between the utility and the developer or the terms of this tariff regarding payment for services, extensions, or other requirements; or in the event the Developer declared bankruptcy and was therefore unable to meet obligations; and,

(c) that the residential service applicant purchased the property from the Developer after the Developer was notified of the need to provide facilities to the utility. A residential service applicant may be charged the remaining costs of extending service to his property; provided, however, that the residential service applicant may only be required to pay the cost equivalent to the cost of extending the nearest water main or wastewater collection line, whether or not that line has adequate capacity to serve that residential service applicant.

SECTION 3.20--SPECIFIC UTILITY EXTENSION POLICY (CONT.)

The following criteria shall be considered to determine the residential service applicant's cost for extending service:

- (a) The residential service applicant shall not be required to pay for costs of main extensions greater than 2" in diameter for pressure wastewater collection lines and 6" in diameter for gravity wastewater lines.
- (b) Exceptions may be granted by the TCEQ Executive Director if:
  - (1) adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
  - (2) larger minimum line sizes are required under subdivision platting requirements or applicable building codes.
- (c) If an exception is granted, the Utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

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

# **Attachment 16**



*Callegari Law Firm, P. C.*  
*Attorneys and Counselors at Law*  
*15040 Fairfield Village Drive, Suite 200*  
*Cypress, Texas 77433*  
*281-304-1230 (voice)*  
*281-373-5203 (fax)*  
*wcj1304@msn.com (email)*

March 10, 2015

City of Houston Planning & Development Services Division  
Attention: Veronica Osegueda  
611 Walker, 18th Floor  
Houston, TX 77002

Re: Consent for Water CCN and Sewer CCN

Dear Ms. Osegueda:

I represent Aqua Texas, Inc. ("Aqua"), a duly licensed investor owned utility company operating in the State of Texas. Presently, Aqua's Certificate of Convenience and Necessity ("CCN") includes areas throughout the Houston metropolitan area, including areas in the City of Houston's ETJ.

Aqua is working with a land developer to provide water and sewer utilities for a 620 acre commercial project located at Highway 249 near Holdreith Road and Theiss Lane. This project is located entirely within the boundaries of Harris County Improvement District No. 17 ("HCID 17") which was created several years ago. Aqua, HCID 17, and the developer have voluntarily and mutually entered into utility and developer reimbursement agreements wherein Aqua will add the area to its water CCN and sewer CCN. Once the area is in Aqua's CCN, Aqua will have the responsibility for providing water and sewer service to the development in accordance with state law in general and the Texas Water Code specifically, which Aqua is prepared to do.

Section 13.245 of the Texas Water Code provides that consent from the City of Houston is required for Aqua to add this area to its CCN, and provides that such consent cannot be unreasonably withheld. Pursuant to prior telephone discussions with YuShan Chang at the City Attorney's office, a formal petition is not required. Pursuant to prior telephone discussions with you, a modified version of the MUD consent application is required. I prepared and completed the attached document entitled "CCN Consent Application Form" which is a modification of the MUD form you previously sent to me via email.

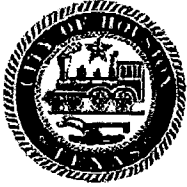
Accordingly, Aqua respectfully and formally submits its application requesting consent from the City of Houston to add the area referenced and described therein, into Aqua's water CCN No. 13203 and sewer CCN 21065. In addition to this hard copy form, this application is being filed electronically to [mudreview@houstontx.gov](mailto:mudreview@houstontx.gov) as well.

Please contact me at your earliest convenience so that I can answer any questions you may have and so that I can help facilitate this request and the associated consent process. Aqua and I both stand ready to provide any information or documentation you may need to complete this process.

With kindest regards,

A handwritten signature in black ink, appearing to be 'WAC' or similar, with a long horizontal stroke extending to the right.

W. A. "Butch" Callegari, Jr.  
Attorney for Aqua Texas, Inc.



# CITY OF HOUSTON



## Department of Public Works and Engineering CCN Consent Application Form

Application is hereby made for consent of the City of Houston to the ☐creation/ ☒addition of 620.652 acres to Aqua Texas, Inc. d/b/a Aqua Texas water CCN No. 13203 and sewer CCN No. 21065 under the provisions of Sections 13.241, 13.245, and 13.246 Texas Water Code. Metes and bounds are attached as Attachment 1.

Attorney for the Applicant

Attorney: W. A. Callegari, Jr.  
Callegari Law Firm, PC  
15040 Fairfield Village Drive,  
Suite 200

Address: Cypress, Texas

Zip: 77433

Phone: 281-304-1230

Email: wcj1304@msn.com

Engineer: Bob D. Boozer, P.E., CDP  
Landev Engineers, Inc.  
1704 Seamist Drive, Suite 104

Address: Houston, Texas

Zip: 77008

Phone: 713-869-2402

Email: bdb@landevengineers.com

Applicant: Aqua Texas, Inc.  
2211 Louetta Road

Address: Spring, Texas

Zip: 77388

Phone: 281-651-0174

(List all owners of property within the CCN area)

A list of property owners in the proposed CCN Area is attached as Attachment 2.

### Location

Inside City Limits ☐ Outside City Limits ☒ Name of County: Harris

Survey: Chauncey Goodrich Survey Abstract: 305

Key Map #: 288N, 288P, 288Q, 288S, 288T

Geographic Location (List only major streets, bayous or creeks):

North of: Boudreaux Estates Drive

East of: Telge Road

South of: N. Humble Lake Road

West of: State Highway 249

### Additional CCN Area Data

Existing Acreage of  
CCN:

n/a

Acreage of New CCN

Area:

620.652 acres



# CITY OF HOUSTON



## Department of Public Works and Engineering CCN Consent Application Form

### Development Breakdown (in Percentage) for tract(s) being considered for consent to be added to CCN:

Single Family Residential: \_\_\_\_\_ Multi-Family Residential: \_\_\_\_\_  
Commercial: 100% Industrial: \_\_\_\_\_ Institutional: \_\_\_\_\_  
Other: \_\_\_\_\_

### Wastewater Treatment Plant Information:

Wastewater generated by the CCN Area will be served by a:

District Plant ☐

Regional Plant ☒

Merenco WWTP is the interim name used in the permit application. Final name is likely to be

Wastewater Treatment Plant Name: Aqua Texas - Willow Creek STP or similar.

NPDES/ TPDES Permit No: WQ0015284001

TCEQ Permit No: n/a

Ultimate Capacity (MGD): 0.6 MGD

Initial Phase: 0.0625

Intermediate Phase: 0.125

Final Phase: 0.6

Existing Permitted Capacity (MGD): n/a

Size of Treatment Plant Site: 5.0 square feet / acres

If Treatment plant is to serve other areas or properties, as a regional plant, please list all areas served, or to be served by the plant and their allotted capacities below:  
(If more than two Districts - attach additional page(s))

Initially, the plant will serve only properties within the CCN Area, and no other known areas have been identified. The plant will be designed with excess capacity so that it can serve other areas in the future.

Name of District or property owner(s): n/a

Capacity Allocation (MGD): n/a

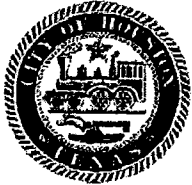
Name of District or property owner(s): n/a

Capacity Allocation (MGD): n/a

### Water Treatment Plant Information:

Name of Water Treatment Plant: Aqua -Willow Creek WP

Water Treatment Plant Address: Nabors Parkway (road construction not completed)



# CITY OF HOUSTON



## Department of Public Works and Engineering CCN Consent Application Form

Water Well Permit Number: No permit number at this time, because plans are still in review stage with TCEQ.

Existing Capacity: Well(s): n/a GPM

Booster Pump(s): n/a GPM

Tank(s): n/a MG

Phase I Capacity: Well(s): 150 gpm GPM

Phase 1 design for 249 LUE Booster Pump(s): 150 gpm GPM

Tank(s): 66,000 gallons MG

Size of Treatment Plant Site: 2.4 square feet / acres

Is the Applicant a member of the City of Houston Ground Water Reduction Plan (GRP)?

Yes ☒

No ☐

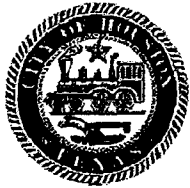
If yes, please attach 40 year water demand projection – 670 LUE

If no, please provide name of the GRP the District is a member of:

Comments or Additional Information:

Aqua Texas is a participant in multiple groundwater reduction plans throughout the Houston metropolitan area, including the City of Houston's plan.

This consent request will be supplemented with a copy of the application filed with the Texas Public Utility Commission requesting inclusion of the CCN Area into the Aqua Texas Water CCN and the Aqua Texas Sewer CCN after the PUC application is filed. The City of Houston's consent is a pre-requisite to the PUC approval, so the City's consent is being requested first.



# CITY OF HOUSTON



## Department of Public Works and Engineering CCN Consent Application Form

For office use only:

Application Received: \_\_\_\_\_

Application Accepted as  
Complete: \_\_\_\_\_

Application Sent to Committee: \_\_\_\_\_

### **Checklist for Completion**

- ☐ The attorney for the district signed the application.
- ☐ The rounding of the acreage is consistent throughout the application (i.e. metes and bounds, petition, application, survey, and vicinity map).
- ☐ All documents are scanned electronically including survey and vicinity maps and submitted by e-mail to [mudreview@houstontx.gov](mailto:mudreview@houstontx.gov). The original with original signatures must be delivered to the address below.

### **Required Attachments**

- ☐ Transmittal letter for Application.
- ☐ Metes and Bounds signed and sealed by a licensed surveyor. (Attachment 1)
- ☐ List of property owners. (Attachment 2)
- ☐ Request for CCN inclusion by developer. (Attachment 3)
- ☐ Consent Conditions, either ETJ (2006 version) or in-city. [to be provided by City] (Attachment 4)
- ☐ Survey Exhibit signed and sealed by a license surveyor. (Attachment 5)
- ☐ An 8 ½ by 11 inch vicinity map showing the existing boundary of the proposed CCN area, nearby roads identified on application, north arrow. (Attachment 6)
- ☐ Letters from adjacent utility providers stating availability of utility services. (Only required for creation petitions and applicable only if there is not an existing regional plant) (Attachment 7)
- ☐ Copy of PUC Application. (Will be provided after it is filed)
- ☐ An Application fee of \$454.96 per each non-contiguous tract requesting consent.

**Please submit a complete application with all attachments to:**

City of Houston Planning & Development Services Division  
Attention: Veronica Osegueda  
611 Walker, 18<sup>th</sup> Floor  
Houston, TX 77002



# CITY OF HOUSTON



Department of Public Works and Engineering  
CCN Consent Application Form

**An electronic copy of the entire application, including all attachments, will expedite processing and is encouraged. Please direct any questions regarding consent applications and submissions of the electronic copy to: [mudreview@houstontx.gov](mailto:mudreview@houstontx.gov)**

The applicant may be contacted at any time during the review process for additional information.

# **Attachment 1**



DESCRIPTION  
HARRIS COUNTY IMPROVEMENT  
DISTRICT NO. 17

620.652 acres of land situated in the Chauncey Goodrich Survey, Abstract Number 305, Harris County, Texas, being the remainder of that certain called 640 acres of land, that certain called 18.9062 acres of land, that certain called 20.000 acres of land, that certain called 2.145 acres of land (Tract 1), that certain called 20.000 acres of land (Tract 2) and that certain called 5.0098 acres of land as described in deed and recorded respectively in the Official Public Records of Real Property of Harris County, Texas, under, County Clerk's File Numbers 20130384778, 20140138412, 20140049212, 20140038882 and Z484126, said 620.652 acres of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1 inch iron pipe found in the North line of that certain called Boudreaux Estates, Section One, an unrecorded subdivision, for the most Southerly corner of that certain called 1.679 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number L951535;

Thence, S 87°11'31" W, along the Northerly line of said Boudreaux Estates, Section One, the Northerly line of that certain called 16.349 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number F196319, and a Northerly line of that certain called 617.6016 acres of land, described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number 20100175659, a distance of 5278.75 feet to a 1 inch iron pipe found for an interior corner of said 617.6016 acre tract;

Thence, N 02°44'11" W, along an Easterly line of said 617.6016 acre tract, a distance of 5320.55 feet to a wooden fence post found for an exterior corner of said 617.6016 acre tract;

Thence, N 87°37'49" E, along the Southerly line of that certain called Calverts Subdivision, an unrecorded subdivision, the Southerly line of Calvert Road (60 foot right-of-way) the Southerly line of those certain called 1.0240 acre, 0.4213 of one acre and 0.885 of one acre tracts described in deed and recorded respectively in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Numbers N106888, R474620 and N343714, and the Southerly line of that certain called Alice Acres, an unrecorded subdivision, a distance of 5160.79 feet to a 5/8 inch iron rod found in the Westerly line of State Highway Number 249, (350 foot right-of-way);

Thence, S 26°12'57" E, along the Southwesterly line of said State Highway 249, a distance of 276.44 feet to a 5/8 inch iron rod set at the intersection of said Westerly right-of-way line of State Highway 249 and the Westerly line of that certain called 160 foot wide Harris County Flood Control District fee strip (Parcel "D") as described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number L951535;

Thence, S 02°49'41" E, along the Westerly line of said Parcel "D" and the Westerly line of said Parcel "D" and the Westerly line of the remainder of that certain called 145.78 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number F014298, a distance of 751.63 feet to the most Easterly Northeast corner of that certain called 9.26 acres of land described in deed and recorded under Volume 1063, Page 557 of the Deed Records of Harris County, Texas;

Thence, N 32°03'38" W, along the Northeasterly line of said 9.26 acre tract, a distance of 204.65 feet to a fence corner for the most Northerly Northeast corner of said 9.26 acre tract;

Thence, S 87°13'07" W, along the Northerly line of said 9.26 acre tract, a distance of 442.36 feet to a fence corner found for the Northwesterly corner of said 9.26 acre tract and the most Easterly Southeast corner of that certain called 7.7884 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number U519393;

Thence, N 02°08'16" W, along the most Easterly line of said 7.7884 acre tract, a distance of 504.08 feet to a fence corner found for the most Northeasterly corner of said 7.7884 acre tract;

Thence, S 88°51'41" W, along the Northerly line of said 7.7884 acre tract, a distance of 574.65 feet to a fence corner found for the Northwesterly corner of said 7.7884 acre tract;

Thence, S 01°52'45" E, along the Westerly line of said 7.7884 acre tract, a distance of 1259.44 feet to a 5/8 inch iron rod with cap set for the most Southwesterly corner of said 7.7884 acre tract;

Thence, N 87°59'57" E, along the most Southerly line of said 7.7884 acre tract, a distance of 60.00 feet, to a 5/8 inch iron rod found for the most Southerly Southeast corner of said 7.7884 acre tract;

Thence, N 01°54'57" W, along an Easterly line of said 7.7884 acre tract, a distance of 740.30 feet to a 1/2 inch iron rod with cap found for an interior corner of said 7.7884 acre tract;

Thence, N 87°17'18" E, partially along a Southerly line of said 7.7884 acre tract, a distance of 294.17 feet to a 1/2 inch iron rod with cap found for the Northeasterly corner of said 5.0098 acre tract;

Thence, S 01°53'28" E, along the Easterly line of said 5.0098 acre tract, a distance of 743.95 feet to a 1/2 inch iron rod found in the most Southerly line of that certain called 28.68 acres of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number C139334, for the Southeasterly corner of said 5.0098 acre tract;

Thence, N 87°59'57" E, along the most Southerly line of said 28.68 acre tract and the Southerly line of said 9.26 acre tract, a distance of 777.34 feet to a point for corner, from which a found drill hole bears S 11°14'49" E, 0.33 feet;

Thence, S 02°49'35" E, along the Westerly line of said remainder of 145.78 acre tract, the Westerly line of that certain called 150 foot wide Harris County Flood Control District fee strip (Parcel "B") as described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number L951535, the most Westerly line of that certain called 64.767 acre tract of land described in deed and recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number Y495627, and the Westerly line of said 1.679 acre tract, a distance of 3700.07 feet to the POINT OF BEGINNING and containing 620.652 acres of land.

BEARING ORIENTATION BASED ON THE DISTRICT BOUNDARY MAP FOR HARRIS COUNTY IMPROVEMENT DISTRICT NO. 17 DATED MAY 2014.

This document was prepared in conjunction with the district boundary map for Harris County Improvement District No. 17, prepared by Hovis Surveying Co., Dated May 2014.

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those right and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

HOVIS SURVEYING COMPANY, INC.  
TEXAS FIRM REGISTRATION NO. 10030400

By: 

Date: May 9, 2014  
Job No: 02-025-101  
File No: N02-025.101D



# **Attachment**

## **2**

**Proposed CCN Area - Listing of Current Landowners  
As reflected by actual ownership as of March 10, 2015**

<b>Merenco Realty, Inc. 520 Post, Ste 457 Houston, Texas 77027 Attention: Joe Bullard</b>	<b>58.605 acres</b>
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<b>Nabors Corporate Services, Inc. 515 West Greens Road, Ste 1200 Houston, Texas 77067 Attention: Orlando Romero</b>	<b>171.87 acres</b>
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<b>Lone Star College System 5000 Research Forest Drive The Woodlands, Texas 77381 Attention: Greg Nelson</b>	<b>18.90 acres</b>
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<b>County of Harris 10555 Northwest Freeway, Ste 210 Houston, Texas 77092 Attention: Shannon Watson</b>	<b>137.95 acres</b>
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<b>Turner Coatings, LLC. 8303-A Thora Road Spring, Texas 77379 Attention: Chris Turner</b>	<b>22.10 acres</b>
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<b>Willow Creek 615 Ltd. 340 N Sam Houston Pkwy East, Suite 140 Houston, Texas 77060 Attention: Joe Fogarty</b>	<b>211.227 acres</b>
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<b>Total Acreage:</b>	<b>620.652 acres</b>
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**Proposed CCN Area - Listing of Current Landowners  
As Reflected on February 26, 2015 HCAD Certificate (2014 Tax Year)**

<b>County of Harris 10555 Northwest Freeway, Ste 210 Houston, Texas 77092 Attention: Shannon Watson Account Numbers: 0421750000160, 0421750000159, 0421750000158, and 0421750000157,</b>	<b>137.95 acres</b>
<b>Merenco Realty, Inc. 520 Post, Ste 457 Houston, Texas 77027 Attention: Joe Bullard Account Numbers: 0421750000001, 0421750000009, and 0421750000161</b>	<b>404.491 acres</b>
<b>Tandem Energy Corporation 2700 Post Oak Blvd., Suite 1000 Houston, Texas 77056 Account Numbers: 0421750000003 and 0421750000004</b>	<b>37.211 acres</b>
<b>Lone Star College System 5000 Research Forest Drive The Woodlands, Texas 77381 Attention: Greg Nelson Account Numbers: 0421750000010</b>	<b>18.90 acres</b>
<b>Turner Coatings, LLC. 8303-A Thora Road Spring, Texas 77379 Attention: Chris Turner Account Numbers: 0421750000156</b>	<b>22.10 acres</b>
<b>Total Acreage:</b>	<b>620.652 acres</b>

CERTIFICATE OF OWNERSHIP

THE STATE OF TEXAS

COUNTY OF HARRIS

I, the undersigned, hereby certify that I have examined the tax rolls of Harris County, Texas, and find that the property described in the attached two page property description, is assessed on the tax rolls of Harris County, Texas, for the tax year 2014 in the name(s) of:

COUNTY OF HARRIS, ACCOUNT #'S, 0421750000160, 0421750000159,  
0421750000158, 0421750000157  
MERENCO REALTY INC., ACCOUNT #'S, 0421750000001, 0421750000009,  
0421750000161  
TANDEM ENERGY CORPORATION, ACCOUNT #'S, 0421750000003,  
0421750000004  
LONE STAR COLLEGE, ACCOUNT # 0421750000010  
TURNER COATINGS LLC, ACCOUNT # 0421750000156.

CERTIFIED this the 26<sup>th</sup> day of February, 2015.

HARRIS COUNTY APPRAISAL DISTRICT

By Celeste Kelly  
Name: Celeste Kelly  
Title: Director of Jurisdiction Communications

# **Attachment**

## **3**

## **HARRIS COUNTY IMPROVEMENT DISTRICT NO. 17**

### **UTILITY SERVICE AGREEMENT**

THIS Utility Service Agreement ("Agreement") is made as of September 1, 2014, by and among HARRIS COUNTY IMPROVEMENT DISTRICT NO. 17, a municipal management district and political subdivision of the State of Texas created operating pursuant to Article XVI, Section 59 and Article III, Section 16 of the Texas Constitution Chapter 375, Texas Local Government Code and Chapters 49 and 54, of the Texas Water Code (the "District"), AQUA TEXAS, INC., a Texas corporation, whose corporate headquarters and principal place of business is at 1106 Clayton Lane, Suite 400W, Austin, Texas 78723 (the "Utility") and MERENCO REALTY, INC., a Texas corporation whose office is located at 520 Post Oak, Suite 457, Houston, Texas 77027 (the "Developer"). The Developer, District and Utility are sometimes hereinafter referred to singularly as a "Party", and collectively as the "Parties".

### **BACKGROUND AND RECITALS**

1. The District has the authority to provide water, sewer, drainage and other utility and public services to the residents and area within and outside of its boundaries.
2. The Utility is the owner and operator of private water and wastewater utilities throughout the state of Texas.
3. The Developer is the owner of a substantial portion of a 620.652 acre tract of land located in Harris County, Texas, and more particularly described in Exhibit "A" attached hereto (the "Property") and has contractual obligations to provide water and wastewater utility service to the Property.
4. The Property is located inside the boundaries of the District or, as to a certain 3.256 acre tract, will be annexed into the District following the execution of this Agreement.
5. The Property is located within the boundaries of one or more of the Utility's Certificates of Convenience and Necessity ("CCN") issued by the Texas Commission on Environmental Quality ("TCEQ") to the Utility or will be added to the Utility's CCN following the execution of this Agreement.
6. The Developer and the District both desire to utilize the Utility as the sole and exclusive provider of water and wastewater for the Property, the District is willing to



permit the Utility to serve water and wastewater customers within the District based on the consideration in this Agreement, and the Utility is willing to be the sole and exclusive water and wastewater service provider for the Property on the conditions stated in this Agreement.

7. The Utility represents that it has sufficient capacity or will timely build sufficient capacity in its regional water and wastewater systems to provide continuous and adequate retail utility services to the Property in accordance with the laws of the State of Texas and the rules of the TCEQ.
8. The Utility is willing to reimburse the Developer for certain expenses incurred by the Developer in designing, planning and installing water and wastewater lines which become part of the Utility's utility systems.
9. The District is willing to reimburse the Utility for certain expenses associated with the provision of water and wastewater services to customers in the District pursuant to the terms and conditions described in this Agreement.
10. Utility is willing to reimburse Developer for certain water and wastewater infrastructure costs as ESFC connections are made, pursuant to the terms and provisions of such reimbursement which are specified in a separate agreement between Utility and Developer to which the District is not a party.

In consideration of the mutual covenants and consideration exchanged and contained in this Agreement, and intending to be legally bound, the Utility, the District, and the Developer agree as follows:

## **ARTICLE I. DEFINITIONS AND GENERAL AGREEMENTS**

### **1.01 DEFINITIONS.**

The Parties agree that the facts stated in the recitals of this Agreement are true and correct. The capitalized terms used in this Agreement shall have the meaning ascribed to them as used in the Recitals or in this section.

- a. "Actual Connections" shall mean the actual number of ESFC's connected to the Facilities.
- b. "Central Plants" shall mean the central water and wastewater treatment plants which provide retail water and/or wastewater utility service to Customers in the Property and other property inside or outside the boundaries of the District.

- c. "CCN" shall mean one or more Certificates of Convenience and Necessity of the Utility issued by a Regulatory Authority permitting utility service by the Utility to any Customer within the District.
- d. "Customer" shall mean a residential or commercial customer of the Utility served by the Facilities.
- e. "Default" shall mean (i) a substantial failure on the part of Utility to provide safe, continuous, and adequate water or wastewater services to the Customers, which failure goes uncured for a significantly extended period of time without good faith efforts on the part of the Utility to cure such default; (ii) a determination or finding that Utility has received Habitual Violations as defined in this Agreement; or (iii) any other event specifically designated in this Agreement which triggers a Default. Any event, occurrence, breach, or violation caused by Force Majeure shall not be a Default unless such event, occurrence, breach, or violation also involves negligence on the part of the Utility.
- f. "Delivery Date" shall mean the date on which the parties agree that any portion of the Facilities shall be constructed and on line as stated on Exhibit "C", attached hereto and the actual date on which each portion of the Facilities is placed in service.
- g. "ESFC" shall mean equivalent single family connections, where one ESFC is equal to 250 gallons per day for water and 200 gallons per day for sewer.
- h. "Facilities" shall mean the Central Plants and any Lines which serve Customers of the Utility within the District.
- i. "Force Majeure" shall mean Shall mean an event or occurrence that renders the Utility or the District unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, including but not limited to the following: The term "force majeure," as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or of the state or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the Party claiming such inability.
- j. "Habitual Violations" shall mean the receipt of four (4) separate Notices of Breach from the District to the Utility during any calendar year which affect the health and safety of the customer of the System. Breaches or violations caused by a Force Majeure as defined herein and which do not involve negligence of the Utility shall be

excluded from the definition of Habitual Violations and shall not be considered when determining Habitual Violations.

- k. "Hold and Haul Costs" shall mean the total costs associated with the process of holding wastewater in a temporary tank or containment and periodically hauling it to a permitted wastewater treatment facility for treatment. Items eligible for reimbursement shall include third party haulers, holding facility maintenance and cleaning, administrative oversight and additional insurance.
- l. "Interior Lines" shall mean water and/or wastewater collection lines, laterals, mains, extensions and all related improvements, which transport water and/or wastewater to and/or from the Property or Customers from the regional water production facilities and/or to the regional wastewater treatment plant and/or water production facilities designated by Utility including, but not limited to, mains, laterals, lines, extensions, piping, taps, stub outs, gate valves, valve boxes, manholes, lift stations and any maintenance or restoration work associated with the construction and installation of such items.
- m. "Minimum Sewer Payment" shall mean the minimum base monthly residential sewer bill amount under the Rate Tariff of the Utility.
- n. "Minimum Water Payment" shall mean the minimum base monthly residential water bill amount (including per gallon usage of 7000 gallons per month) under the Rate Tariff of the Utility.
- o. "Minimum Water Connection Costs" shall mean an amount equal to the Minimum Water Payment times seventy (70) less the actual income received from the ESFCs connected to the System, which amount is stipulated to be \$4,625.00 per month or \$55,500 per year.
- p. "Property" shall mean an approximately 620.652 acre tract of land located within the boundaries of the District and more particularly described in Exhibit "A" and any additional land which is annexed into the District and which is served by the Central Plants.
- q. "Purchase Price" shall mean with respect to a Default, an amount equal to the amount determined pursuant to Section 5.04 of this Agreement.
- r. "Rate Tariff" shall mean the order approved by the appropriate Regulatory authority for utility customers of the Utility.
- s. "Regulatory Authority" shall mean any state or federal regulatory agency with jurisdiction over the System or any Party, including the TCEQ and the PUC.

- t. "Regulatory Requirements" shall mean the rules of any Regulatory Authority.
- u. "Service Commencement Date" shall mean the date on which any Central Plant has been constructed and is operational with Customers receiving service.
- v. "System" shall mean the Facilities and any other facilities of the Utility which serve customers of the Utility connected to or serving any customer within or outside the District.
- w. "TCEQ" shall mean Texas Commission on Environmental Quality.
- x. "PUC" shall mean the Texas Public Utility Commission.

1.02. **GENERAL AGREEMENTS.** The general concept of this Agreement and the intent of the parties with respect to this Agreement and all associated documents executed in connection herewith are as follows:

- a. The Property shall be included in the Utility's CCN service area and the District will not provide water or wastewater service to the Property or Customers in the District.
- b. All connections in the Property to the Utility's water and/or wastewater systems shall become permanent retail and/or commercial customers of the Utility, the Utility shall provide safe continuous and adequate water and wastewater service to all customers in accordance with all Regulatory Requirements and the customers shall pay the Utility in accordance with the Rate Tariff in effect from time to time for the water and/or wastewater services provided by the Utility.
- c. The Utility shall be responsible for the design and construction of the Central Plants sufficient to serve all existing and planned Customers within the Property as connections are added. Developer shall be responsible for the design and construction of the Interior Lines, and Utility shall reimburse Developer pursuant to the terms and provisions in a separate agreement between Utility and Developer to which the District is not a party. Developer has previously taken steps to secure a wastewater permit and plant Sites, and Utility shall acquire such permits and Sites from Developer pursuant to the terms and provisions in a separate agreement between Utility and Developer to which the District is not a party.
- d. The Utility shall provide timely service to the Property by installation of the Facilities sufficient to serve Customers in the District at the time service is needed by the Developer and the District. It is also the intent of the Parties that the Customers within the District are provided safe, sufficient and adequate water and wastewater service meeting all Regulatory Requirements.

- e. The Utility shall deliver a copy of any notices of violation of any Regulatory Authority rule, regulation or statute within five (5) business days of receipt.
- f. The Utility shall be responsible for the operations and maintenance of the Facilities in accordance with all Regulatory Requirements. The District shall reimburse the Utility for certain of the early stage development operations and maintenance expenses as provided herein.
- g. The District may purchase all of the Facilities from the Utility following a Default as defined above pursuant to the provisions of Article V below.

## **ARTICLE II. SERVICE**

- 2.01 **Exclusive Service Rights.** The District hereby grants the Utility the exclusive right to serve all customers within the Property with the Facilities subject only to Article V of this Agreement. The Utility may serve areas outside the District with the Central Plants as provided in Article IV.
- 2.02 **Consent to CCN Service Area.** Within ten days of the execution of this Agreement, Utility shall file an application to add the Property to the Utility's CCN for water and for wastewater. The Developer and the District agree that each shall consent to such application and neither shall in any way object to the application. The District is not required to obtain and does not have a CCN for the Property. The District hereby consents to water and wastewater service by the Utility within the District and the inclusion of the portion of the District encompassing the Property in the CCN of the Utility. The District and Developer shall provide any reasonable and prompt assistance to Utility in adding the Property to the Utility's CCN and for obtaining, if necessary, any other permits required to deliver utility service to Customers in the District promptly upon request from Utility.
- 2.03 **Rate Tariff.** All connections to the Utility water and/or wastewater systems shall become permanent customers of Utility; and such customers shall be obligated to pay water and wastewater bills for use of such systems in accordance with the then current Rate Tariff approved by any Regulatory Authority.

## **2.04 Construction.**

- a. The Utility shall be solely responsible for the design, engineering, installation, and construction of the Central Plants needed to serve the Property as Customers are added to the System. All construction shall be in accordance with all applicable rules of any Regulatory Authority.
- b. Developer shall be solely responsible for the design, engineering, installation, and construction of the Interior lines needed to serve the Property as Customers are added to the System. All construction shall be in accordance with all applicable rules of any Regulatory Authority.
- c. The Utility and Developer shall, at their respective sole cost and expense, design and construct the Central Plants and Interior Lines to serve the Property in accordance with the general layout attached hereto as Exhibit "B" and in accordance with the schedule attached hereto as Exhibit "C". Failure of Utility to have the Central Plants designed, constructed and on line on the Delivery Date shall be a Default. Developer's failure to have the Interior Lines designed, constructed and on line on the Delivery Date shall not be Default.
- d. The District and/or Developer shall inform the Utility of the progress of development on the Property, and the Utility shall inform the District and the Developer of the capacity of the System. All reports shall be in writing. The Developer and/or District shall specify the number of ESFC projected forward for up to two (2) years in advance. Upon agreement of the Parties that an expansion of the Facilities is required or when any Central Plant is at 75% of capacity, the Utility shall prepare a schedule for design and construction of the expansion which shall be attached hereto as an additional page to Exhibit "C" when agreed upon by the Utility, the Developer and the District. Failure to have the expansion of the Facilities designed, constructed and on line on or before the Delivery Date shall be a Default.

## **ARTICLE III. COMPENSATION**

### **3.01 Reimbursement to Utility for Interim Wastewater Costs.**

- a. During the preliminary stages of development of the Property the Parties acknowledge and agree that the most effective means of providing wastewater service is via Hold and Haul. The District shall reimburse Utility for all Hold and Haul Costs associated with the Property less the actual minimum sewer payments income received from actual connections on the Property. The District shall reimburse

Utility within forty-five (45) days of presentation of a bill for such costs, no more than two times per year.

- b. **Term of Wastewater Reimbursement.** The Districts' obligation to reimburse the Utility for Hold and Haul Costs shall commence on the date the Facilities have Customers connected which are receiving water utility service and shall terminate on the earlier of the Delivery Date or the Service Commencement Date for the Central Wastewater Plant serving the Property.

**3.02 Reimbursement for Interim Water Service.**

- a. **Minimum Water Connection Costs.** During the preliminary stages of development, the District and the Developer acknowledge that Utility must receive the funds equal to the revenue generated by at least seventy residential water connections in order to efficiently provide water service to the Property. Accordingly, the District shall reimburse Utility for Minimum Water Connection Costs. The District shall pay the Utility within forty-five (45) days of presentation of an invoice for such costs, no more than two times per year.
- b. **Term of Water Reimbursement.** The District's obligation to reimburse Utility for Minimum Water Connection Costs shall commence on the Water Central Plant Service Commencement Date and shall terminate when there are seventy (70) ESFCs Actual Connections to the Utility's Water System.

**ARTICLE IV.  
LIMITATIONS AND EXCLUSIONS**

- 4.01 Utility shall be free to provide water and/or wastewater service to other customers not on the Property or in the District using the Central Facilities, so long as Utility is not in Default as defined above and so long as rates to such other customers are not more favorable than rates available to Customers within the District, unless Utility is required to do so by a Rate Tariff approved by a Regulatory Authority.
- 4.02 The Utility shall not be obligated to provide water or service for fire protection unless and until (a) any Regulatory Authority specifically approves a Rate Tariff which includes the recovery of all fire protection costs (capital as well as operations) incurred by the Utility in such tariff; or (b) the District or the Developer pay to the Utility any incremental cost of upsizing the System to meet all existing fire protection requirements.
- 4.03 The District shall be free to provide water and wastewater services to other parties and tracts in the District which are not in the Property.

**ARTICLE V.  
DEFAULT AND REMEDIES**

- 5.01 **Notice of Default by Utility and Opportunity to Cure.** During the Term this Agreement, if the District determines that Utility has committed a substantial failure as contemplated by Section 1.01(e)(i) of this Agreement, the District shall provide written notice of said breach ("Notice of Breach") to Utility by certified or registered mail, return receipt requested, or by fax with proof of receipt, setting forth a reasonable description of the purported material breach. Utility shall commence curing such purported material breach within ten (10) calendar days after receipt of such Notice of Breach and shall diligently pursue and complete such cure without unreasonable cessation of activities within sixty (60) days from the date of said Notice. In the event that Utility fails to cure the purported material breach within such sixty (60) day period, the District shall have the right to declare Utility in default of this Agreement and to proceed with the purchase of the System as provided in Section 5.04 of this Agreement, provided, however, if the breach is not reasonably susceptible to cure by Utility within such sixty (60) day period, the District agrees that it will not declare Utility in default of this Agreement so long as Utility has diligently pursued such cure within the foregoing sixty (60) days and diligently completes the work, without unreasonable cessation, within a reasonable time thereafter. The time authorized by this Agreement to cure the breach is the "Cure Period." The District shall provide written notice to Utility immediately upon acceptance of the cure of any such breach. Conversely, in the event that Utility fails to cure a material breach of this Agreement within the Cure Period provided for herein, the District shall have the right to declare Utility in default of this Agreement and to proceed with the purchase of the System as provided in Section 5.04 of this Agreement.
- 5.02 **Default.** The occurrence of Habitual Violations or other uncured Default shall trigger an Option by the District to purchase the System pursuant to this Article of this Agreement.
- 5.03 **Dispute Resolution.** Notwithstanding anything to the contrary set forth herein, in the event that the District declares Utility to be in default of this Agreement, and Utility contests said declaration in writing in accordance with the notice provisions of this Agreement, the District and Utility agree to meet, within ninety (90) days of receipt of each party's respective written notices, to negotiate in good faith and attempt to resolve any conflicts. In the event that the District and Utility are not able to resolve such conflict to their mutual satisfaction, the District and Utility agree to submit to mediation and shall participate in such mediation in good faith. Each party shall bear its own expenses in connection with any such mediation. Neither party is prohibited from initiating litigation to resolve any controversy between the parties; except that District and Utility agree that prior to any trial on the merits concerning a controversy, the parties shall submit to mediation and shall participate in such mediation in good faith.
- 5.04 **Option to Purchase.**



- a. Grant of Option. In consideration of Ten dollars (\$10.00) and other good and valuable consideration, including the covenants and agreements contained in this Agreement, in the event of a Default, the Utility grants to the District an exclusive option to purchase the Facilities (the "Option") at the Purchase Price.
- b. Exercise of Option. The District may, but is not obligated, to exercise the Option after a Default by the Utility. The Option may be exercised by delivery of a notice from the District to the Utility stating that a Default exists, and that the District has elected to exercise its Option to purchase the Facilities and that the District has complied with any notice, cure, and dispute resolution provisions of this Agreement.
- c. Determination of Purchase Price. Upon delivery of the notice of exercise of the Option, each of the Utility and the District shall engage an appraiser within thirty (30) calendar days to appraise the Facilities subject to the Option. The appraisers shall be qualified to make real estate appraisals and business appraisals. Each appraisal shall take into consideration the age and condition of the System, the income generated from current Customers of the Facilities, income to be generated from future Customers of the Utility to be connected to the Facilities pursuant to verifiable contracts and commitments for additional development, and the requirements of any Regulatory Authority. The completed appraisals shall be delivered to the party requesting the appraisal within forty-five (45) days after engagement, and each party shall exchange its appraisal with the other no later than the fifth (5<sup>th</sup>) calendar day after the last of the appraisals is complete. In the event the two (2) appraisals are within ten (10%) of each other, the Purchase Price shall be an amount equal to the average of the two (2) appraisals. In the event the two (2) appraisals are not within ten (10%), within ten (10) calendar days of the exchange of the appraisals, the two (2) appraisers shall agree on and engage a third appraiser who shall appraise the Facilities in the manner described above. The third appraisal shall be delivered to the Parties within forty-five (45) days of engagement. The average of the three (3) appraisals shall be the Purchase Price. Each Party shall be responsible for the cost of its appraisal and the Parties shall each pay 50% of the cost of the third appraiser, if any. Failure of any Party to timely engage an appraiser or deliver, pay for or pursue any portion of the appraisal or closing process shall be a Default. The Purchase Price for the Facilities shall not be lower than the amount at which the Facilities are accounted for and reflected in the Utility's rate base, that amount being actual original cost less depreciation.

#### **5.05 Right of First Refusal.**

- a. Limited to System. The District shall have a right of first refusal to purchase the Facilities, if the Utility elects to sell the System which includes the Facilities to an

unrelated third party. This right of first refusal shall not exist if Utility's sale of the System includes other assets or systems owned by the Utility, nor shall it apply if the Utility transfers ownership of the System or the Facilities to an affiliated entity.

- b. **Notice of Event.** Within ten (10) calendar days after receipt and acceptance by the Utility of a bona fide offer to sell the Facilities as described in section 5.04(a) above, the Utility shall notify the District of such offer.
- c. **Exercise of Right of First Refusal.** The District shall notify the Utility within forty-five (45) days of receipt of notice thereof from Utility whether District intends to exercise its right of first refusal to purchase the Facilities.
- d. **Determination of Purchase Price.** The right of first refusal to purchase the Facilities from the Utility shall be at a purchase price equal to the amount of the bona fide offer. The existence of this right of first refusal shall be disclosed by Utility to any potential party of any of the transactions contemplated.

5.05 **Closing.** Upon determination of the Purchase Price the District shall submit to the TCEQ (a) a bond application to issue an amount of bonds sufficient to pay the Purchase Price plus any costs of the transaction and (b) an application for consent to purchase the Facilities or Systems covered by the bond application, together with such appraisals, engineering reports and other data in support of such applications as may be reasonably required to obtain approval. The District shall pursue each application and upon approval of both applications by the TCEQ, shall close and fund the purchase of the System and/or Facilities. If the sale of the bonds and the closing and funding of the Facilities at the Purchase Price does not occur within one hundred twenty (120) days after the determination of the Purchase Price, the District's ability to purchase the Facilities shall terminate. The Utility shall cooperate and shall execute any documents reasonable required by the District to consummate the transactions contemplated by this Agreement and take any action as may be required by 30 T.A.C. Section 293.69 or other Regulatory Requirement. After Closing and Funding, the Utility shall immediately file all documentation with each Regulatory Authority to terminate the CCN of the Utility over the Property and the District.

## **ARTICLE VI. MISCELLANEOUS**

- 6.01 **Governing Law.** This Agreement, all attachments hereto, and all documents and instruments to be furnished or delivered hereto, shall be governed by the laws of the State of Texas without giving effect to conflicts of laws principles.
- 6.02 **Assignment; Change in Ownership.** No Party shall assign its rights and obligations under this Agreement, directly or indirectly, voluntarily or involuntarily, without the prior written