



Control Number: 44794



Item Number: 15

Addendum StartPage: 0



Quadvest, L.P.
26926 FM 2978
Magnolia, TX 77354

Main: 281-356-5347
Fax: 281-356-5382
Quadvest.com

RECEIVED
2015 OCT 13 AM 10:49
PUBLIC UTILITY COMMISSION
FILING CLERK

October 12, 2015

Public Utility Commission of Texas
Central Records
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

Re: Docket No 44794
Application for Sale Transfer Merger of Westside Utilities to Quadvest L.P.
Response to PUC Staff's First Request for Information &
Response to the October 9th Conference Call

To Whom It May Concern:

In response to the PUC Staff's request for information and the conference call on October 9th 2015, Quadvest respectfully submits the following information:

Staff 1-1: The Lake Pointe Estates Subdivision has been operating under PWS ID No 0790189 for the past 15 years. The PWS ID number has been incorrectly identified as 0796189, which is simply a typographical error (0796189 instead of 0790189) that has been perpetuated across various filings. In issuing the original CCN, TCEQ, the regulatory authority with jurisdiction at that time over both the water utility regulatory program under Chapter 13 of the Texas Water Code and the public water supply system regulatory program under Chapter 341 of the Texas Health and Safety Code, considered and evaluated the facts relevant to the construction and operation of the Lake Pointe Estates Subdivision of Westside Utilities, and determined that issuance of a CCN based on a sole Public Water Supply Registration (PWS) No. issued to the Fort Bend County MUD 37, the wholesale provider of water service, satisfied applicable regulatory requirements. As the attached TCEQ documents reflect, at the time that the original CCN was being considered, TCEQ was aware that the developer would be constructing the distribution system (see, e.g., Attachment E) but required no separate PWS Registration No. for issuance of the original CCN. It is our position that the proposed Sale, Transfer, Merger (STM) Application currently under consideration by PUC does not involve any change in those factual circumstances and PUC should not revisit a decision that is not the subject of the pending STM proceeding. The applicant in this STM proceeding is not proposing to construct any additional facilities for Lake Pointe Estates Subdivision.

To the applicant's knowledge, at no time during the processing of the original CCN, any of the amendments that followed, or to the present day has TCEQ required that a separate

15

PWS Registration No. be issued in the name of Westside Utilities. If TCEQ, the regulatory authority with jurisdiction over public water supply regulation, has not required a separate PWS Registration No. be issued in the name of Westside Utilities, in our view, it is not appropriate for the PUC to now require a separate PWS Registration No. under the guise of a different regulatory program. The agency with exclusive jurisdiction to determine whether an additional PWS Registration No. is required in the name of Westside Utilities is TCEQ. While we have not been made aware of any compliance issues associated the PWS Registration No., to the extent that those may exist, we believe that TCEQ is the agency with jurisdiction to address those issues separate and apart from the pending proceeding and any such issues should not impede or affect the processing of the pending STM application.

Attachments:

- Attachment 'A'
 - TCEQ Conditionally Approved for Construction letter dated March 29, 1999. This letter provides that the plans and specs for the underground were submitted and approved for construction by the TCEQ
- Attachment 'B'
 - Sampling inside the Lake Pointe Estates subdivision illustrating compliance with TCEQ rules for a public water system. Included are the samples taken from 1-15 thru 9-15. Additional samples can be provided upon request.
- Attachment 'C'
 - Consumer Confidence Report (CCR) – The attached CCR was sent out to customers in the Lake Pointe Estates subdivision for 2014. Additional years of CCR can be produced upon request.
- Attachment 'D'
 - Letter from Fort Bend County MUD 37 confirming wholesale agreement between Westside Water and FBCMUD 37, and confirmation of the assignment of such agreement to Quadvest, L.P. once the STM application is approved by the PUC.
- Attachment 'E'
 - Memorandum from D. Smith to K. Blaschke dated February 3, 2000 discussing CCN application and Developer installation of water distribution system (and interconnect with MUD #37 for wholesale utility services)..

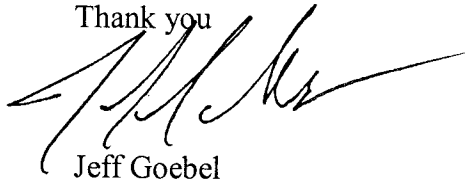
Staff 1-2: Quadvest will provide retail service to the customers inside the lake Pointe Estates subdivision utilizing the wholesale agreement in Attachment 'D' for water and sewer service to the subdivision.

Staff 1-3: Please see Attachment 'D' for the written agreement between FBCMUD 37 and Quadvest, L.P.

The above information confirms that the current and future utility service to the Lake Point Estates subdivision satisfies the PUC prerequisites for approval of the CCN for that subdivision as part of the pending STM transfer application. Therefore, Quadvest respectfully requests approval of the application.

If you have any questions please call me at 281-356-5347.

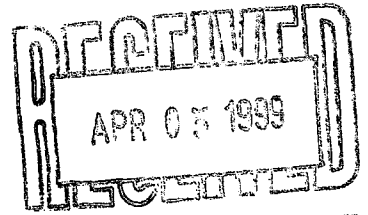
Thank you

A handwritten signature in black ink, appearing to read 'J. Goebel', with a long horizontal flourish extending to the right.

Jeff Goebel

Attachment 'A'
TCEQ Approval for Construction

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

March 29, 1999

Mr. Garald E. Munger, Jr., P.E.
Century Engineering, Inc.
3030 South Gessner, Suite 100
Houston, Texas 77063

Re: Fort Bend County MUD No. 37 - Public Water System I.D. #0790189
Proposed Water Distribution System for Lake Pointe Estates
Plan Review Log Number 902-013
Fort Bend County, Texas

Dear Mr. Munger: Jr.:

The planning material received on February 1, 1999, with your letter dated January 27, 1999 for the proposed water distribution system has been reviewed. The project generally meets the minimum requirements of the TNRCC's Chapter §290 - Rules and Regulations for Public Water Systems (Rules) and is **conditionally approved for construction** if the project plans and specifications meet the following requirements:

1. The specifications provided do not have engineering seals, signatures and dates affixed as required by the rules of the Texas State Board of Registration for Professional Engineers, and Section §290.39(1) of TNRCC rules. The project was reviewed only with the information contained in the plans;
2. All pipe must bear the National Sanitation Foundation Seal of Approval, as required in Section §290.44(2) of the rules;
3. The hydrostatic leakage rate shall not exceed the amount allowed or recommended by AWWA formulas in compliance with Section §290.44(a)(5) of the rules;
4. The project shall comply with the provisions in Section §290.44(b) of the rules, relating to lead banned from piping and joints;
5. The system will be provided with sufficient valves and blowoffs, and all dead-end mains shall be provided with acceptable flush valves and discharge piping, as required by Sections 290.44(d)(5) and (6) of the rules;

Mr. Garald E. Munger, Jr., P.E.

Page 2

March 29, 1999

6. The project shall comply with all the provisions relating to water/sewer separation in Section §290.44(e) of the rules;
7. When water lines are laid under any flowing or intermittent stream or semipermanent body of water, the water main shall be installed in a separate watertight pipe encasement and valves must be provided on each side of the crossing with facilities to allow the underwater portion of the system to be isolated and tested, as required by section §290.44(f)(2) of the rules; and,
8. New mains shall be thoroughly disinfected in accordance with AWWA Standard C651 and then flushed and sampled before being placed in service as required by section §290.44(f)(3) of the rules.

The submittal consisted of 30 sheets of engineering drawings and technical specifications. The approved project consists of:

- Approximately 150 feet of 12-inch, 7,650 feet of 8-inch and 1,400 feet of 6-inch AWWA C-900 PVC waterlines and related appurtenances.

This approval is for public water system construction only. The wastewater components contained in this design were not considered.

Water treatment for the system is provided by the Ft. Bend County MUD No 37 public water supply system.

An appointed engineer must notify the TNRCC's Region 12 Office at (713) 767-3500 when construction will start.

Please keep in mind that within 60 days of project completion the engineer must attest in writing that the project was constructed as described in the approved plans, specifications and any change orders filed with the TNRCC as required in §290.39(c)(3)(C) of the Rules.

Please refer to Rate Analysis and Plan Review Team Log No. 902-013 in all correspondence for this project. This will help complete our review and prevent it from being considered a new project.

For future reference, you can review a portion of the Rate Analysis and Plan Review Team's database to see if your project has been received. This is available on the TNRCC's homepage on the Internet at the following address:

Mr. Garald E. Munger, Jr., P.E.

Page 3

March 29, 1999

<http://www.tnrcc.state.tx.us/water/wu/rates/planrev.html>

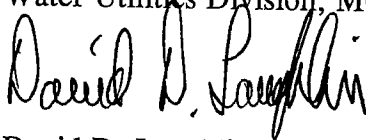
You can download most of the well construction checklists and the latest revision of Chapter 290 "Rules and Regulations For Public Water Systems" from this site.

If you have any questions please contact Ms. Ana Lopez Portillo at (512) 239-6960 or the Internet address: "alopezpo@tnrcc.state.tx.us".

Sincerely,



Ana C. Lopez Portillo
Rate Analysis and Plan Review Team
Water Utilities Division, MC 153



David D. Laughlin, P.E.
Rate Analysis and Plan Review Team
Water Utilities Division, MC 153

ALP/DDDL/bmd

cc: Ft Bend County MUD No. 37
TNRCC Region No. 12 Office - Houston
TNRCC Districts Administration Section - Attn.: P. Hiscoe (w/approved materials)



CENTURY ENGINEERING, INC.

3030 SOUTH GESSNER • SUITE 100 • HOUSTON, TEXAS 77063
(713) 780-8871 • FAX (713) 780-7662

January 27, 1999

Mr. Joseph L. Strouse, P.E.
Texas Natural Resource Conservation Commission
Plans Review and Rate Design Team
Water Utilities Division (MC 153)
P.O. Box 13087
Austin, TX 78711-3087

**SUBJECT: Plans and Specifications Review
Water Distribution System
Lake Pointe Estates
C.E.I. Job No. 98016-00.1**

Dear Mr. Strouse:

Enclosed please find a signed and sealed set of plans and specifications for Lake Pointe Estates located outside the city of Houston, Texas, inside the Houston ETJ and in Fort Bend County for your review and approval of the water distribution system. Your review and comments are appreciated.

If I can provide additional information please do not hesitate to call.

Sincerely,

Jeff McDonald
Project Manager

enclosures

g:/gary/98016-00.1 pinoakest/correspondence/tnrcc-w.doc

Attachment 'B'

Microbial Monitoring Forms from 1-15 to 8-15

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
January 2015

01/28/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
1150792	0790189	Westside Water	24919 Laguna Edge	Ft Bend	01/13/15	10.27	RF	Public	Distribution	Well	1.62	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P.O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
February 2015

02/26/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
2150774	0790189	Westside Water	24919 Laguna Edge	Ft Bend	02/10/15	10:38	RF	Public	Distribution	Well	1.43	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P.O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Seyern Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
March 2015

03/26/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
3150741	0790189	Westside Water	24919 Laguna Edge	Ft Bend	03/11/15	10:19	RF	Public	Distribution	Well	1.46	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
April 2015

04/28/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
4150616	0790189	Westside Water	24919 Laguna Edge	Fl Bend	04/09/15	10:02	RF	Public	Distribution	Well	1.57	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P O Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
May 2015

05/28/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
5150871	0790189	Westside Water	24919 Laguna Edge	Ft Bend	05/11/15	10:26	RF	Public	Distribution	Well	1.65	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P.O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
June 2015

06/25/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
6150950	0790189	Westside Water	24919 Laguna Edge	Ft Bend	06/09/15	10:38	RF	Public	Distribution	Well	1.55	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P.O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Seyern Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
July 2015

07/28/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
7150717	0790189	Westside Water	24919 Laguna Edge	Ft Bend	07/09/15	10:15	RF	Public	Distribution	Well	1.40	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P.O. Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Severn Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
August 2015

08/27/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
8150869	0790189	Westside Water	24919 Laguna Edge	Ft Bend	08/11/15	10:16	RF	Public	Distribution	Well	1.71	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P O Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Seyern Trent Environmental Services, Inc.
16337 Park Row
Houston, TX 77084

Water Utility Services, Inc. - TX02604
Bacteriological Test Report
September 2015

09/28/15

Sample ID	PWSID	PWS Name	Sample Site	County	Sample Date	Sample Time	Collector	System Type	Sample Type	Source	Chlorine mg/L	Total Coliform	E. coli
9150875	0790189	Westside Water	24919 Laguna Edge	Ft Bend	09/10/15	10:10	RF	Public	Distribution	Well	2.03	not found	not found

Steve Grychka
Steve Grychka
Laboratory Director

Water Utility Services, Inc.
P O Box 2628
Spring, Texas 77383
281-290-0704

NELAP Accredited
Method: Colitag

Attachment 'C'
2014 Consumer Confidence Report

Fort Bend County MUD No. 37

2014 Drinking Water Quality Report

The source of drinking water used by Fort Bend County MUD 37 is ground water. TCEQ completed an assessment of your source water and results indicate that some of your sources are susceptible to certain contaminants. The sampling requirements for your water system are based on this susceptibility and previous sample data. Any detections of these contaminants may be found in this Consumer Confidence Report. For more information on source water assessments and protection efforts at our system, contact Joe Williams, Severn Trent Services.

Further details about sources and source water assessments are available in Drinking Water Watch at the following URL:
<http://dww.tceq.state.tx.us/DWW/>.

The sources of drinking water (both tap water and bottled water) generally include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals, and in some cases, radioactive material, and can pick up substances resulting from the presence of contaminants that may be present in source water:

- 1) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and 2) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban storm water runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming. 3) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses. 4) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production,

and can also, come from gas stations, urban storm water runoff, and septic systems. 5) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining production and mining activities.

When drinking water meets federal standards there may not be any health based benefits to purchasing bottled water or point of use devices. Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the EPA's Safe Drinking Water Hotline (1-800-426-4791).

Public input concerning the water system may be made at regularly scheduled meetings, generally held at 7:00 PM on the 3rd Wednesday of the month at Club House, 1301 Misty Bend, Katy, Texas 77494. You may also contact Joe Williams, Severn Trent Services, at 281-646-2364 with any concerns or questions you may have regarding this report.

Este reporte incluye informacion importante sobre el agua para tomar. Si tiene preguntas o discusiones sobre este reporte en español, favor de llamar al tel. (281) 579-4507 para hablar con una persona bilingue en español.

Contaminants may be found in drinking water that may cause taste, color, or odor problems. These types of problems are not necessarily causes for health concerns. For more information on taste, odor, or color of drinking water, please contact the district's operator, Severn Trent Services.

Definitions & Abbreviations:

Maximum Contaminant Level Goal (MCLG): The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

Maximum Contaminant Level (MCL): The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to MCLGs as feasible using the best available treatment technology.

Maximum Residual Disinfectant Level (MRDL): The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

Maximum Residual Disinfectant Level Goal (MRDLG):

The level of drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

Action Level (AL): The concentration of a contaminant, which, if exceeded, triggers treatment or other requirements that a water system must follow.

Parts per million (ppm): The equivalent of milligrams per liter (mg/l) is analogous to 1 minute in 2 years.

Parts per billion (ppb): The equivalent of micrograms per liter (µg/l) is analogous to 1 second in 32 years.

Picocuries per liter (pCi/L): A measure of radioactivity.

N/A: Not applicable.

NTU: Nephelometric Turbidity Units.

DEAR CUSTOMER:

This report is intended to provide you with important information about your drinking water and the efforts made by the water system to provide safe drinking water.

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk.

Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care provider. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline at (800) 426-4791.

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. We cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.

SEVERN
TRENT
SERVICES

Substance	Unit of Measure	Year	MCL	Average Level Detected	Minimum - Maximum Level Detected	MCLG	In Compliance	Typical Sources
Radioactive Contaminants (Regulated at the Water Plant)								
Radium 226	pCi/L	2012	5	0.96	0.96 – 0.96	0	Yes	Erosion of natural deposits
Gross Alpha	pCi/L	2012	15	6.2	6.2 – 6.2	0	Yes	Erosion of natural deposits
Gross Beta	pCi/L	2012	50	5.1	5.1 – 5.1	0	Yes	Decay of natural and man-made deposits.
Inorganic Contaminants (Regulated at the Water Plant)								
Fluoride	ppm	2012	4	0.21	0.21 – 0.21	4	Yes	Erosion of natural deposits; water additive which promotes strong teeth, discharge from fertilizer and aluminum factories.

Substance	Unit of Measure	Year	MRDL	Average Level Detected	Minimum - Maximum Level Detected	MRDLG	In Compliance	Typical Sources
Maximum Residual Disinfectant Level								
Chlorine Residual	ppm	2014	4.0	1.54	1.44 - 1.67	4.0	Yes	Water additive used to control microbes.

Substance	Unit of Measure	Year	90th Percentile Value	EPA Action Level	Number of Results above Action Level	MCLG	In Compliance	Typical Sources
Lead and Copper (Regulated at Customers Tap)								
Lead	ppb	2014	0	15	0	0	Yes	Corrosion of household plumbing systems; erosion of natural deposits.
Copper	ppm	2014	0.075	1.3	0	1.3	Yes	Corrosion of household plumbing systems, erosion of natural deposits; leaching from wood preservatives.

* All levels detected were below the MCLs.

Attachment 'D'

Wholesale Agreement & Assignment



JOHNSON
PETROV LLP
ATTORNEYS AT LAW

October 1, 2015

apetrov@johnsonpetrov.com

Mr. Jeff Eastman
Chief Financial Officer
Quadvest, L.P.
26926 F.M. 2978
Magnolia, Texas 77354

Re: Application by Quadvest, L.P. and Westside Water LLC for Sale, Transfer or Merger of
Facilities and Certificate Rights; Docket No. 44794

Dear Mr. Eastman:

Our firm represents Fort Bend County Municipal Utility District No. 37 (the "District"). The purpose of this letter is to confirm that the District has an existing contract with Westside Water LLC ("Westside") whereby Westside purchased water and sewer capacity in the District's Water and Wastewater Plants in order for Westside to provide retail water and sewer services to its customers in the Lake Point Estates subdivision. The original contract was with Michael Walton, which was then assigned to Westside. A copy of the contract and the assignment is attached for reference (the "Contract").

Further, this letter will confirm that the District understands that Quadvest, L.P. ("Quadvest") has filed an application to purchase Westside and that such application is currently pending before the Public Utility Commission of Texas. Upon approval of the purchase by Quadvest and in order for Quadvest to continue to provide water and sewer service after the Sale, Transfer, Merger takes place, it is the intent of the District to consent to the assignment of the Contract from Westside to Quadvest.

Please let me know if you need any additional information concerning this matter.

Very truly,

Alan P. Petrov
Attorney for the District

APP/mlr
Enclosure

**ASSIGNMENT OF AGREEMENT PROVIDING FOR THE OPERATIONS AND
MAINTENANCE OF WATER AND WASTEWATER FACILITIES BY AND BETWEEN
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37 AND MICHAEL
WALTON**

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §


KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, MICHAEL WALTON (also known as MICHAEL R. WALTON), in Harris County, Texas (hereinafter referred to as "Assignor"), for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars, and other good and valuable consideration as hereinafter set forth, to Assignor in hand paid by WESTSIDE WATER, LLC, a Texas limited liability company (hereinafter referred to as "Assignee"), the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD, CONVEYED, ASSIGNED and DELIVERED, and by these presents does GRANT, SELL, CONVEY, ASSIGN and DELIVER unto the said Assignee all of his right, title and interest, as Developer, in and to that certain Agreement Providing for the Operations and Maintenance of Water and Wastewater Facilities by and between Fort Bend County Municipal Utility District No. 37 and Michael Walton ("Agreement"), by and between Assignor, as Developer, and Fort Bend County Municipal District No. 37, as District, dated effective as of May 19, 1999, concerning the providing of wholesale utility services for eighty-nine(89) estate type lots in Lake Pointe Estates, Section One, a subdivision, situated in the County of Fort Bend, and State of Texas, being more particularly described as follows:

Lake Pointe Estates Section One, A subdivision of 134.8530 acres of land out of the I. & B.N. R.R. CO. Survey, Block 2 Section 2, A-268. Fort Bend County, Texas

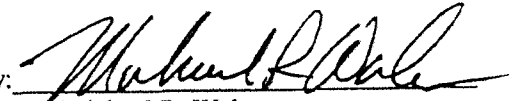
EXECUTED AND DELIVERED effective as of the 27 day of June, A.D., 2005.

ASSIGNOR:


MICHAEL WALTON (also known as
MICHAEL R. WALTON)

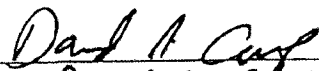
ASSIGNEE:

WESTSIDE WATER, LLC, a Texas limited
liability company

By: 
Name: Michael R. Walton
Title: Member

ACKNOWLEDGED AND ACCEPTED BY:

FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT

By: 
Name: David A. Corp
Title: President

**FIRST AMENDMENT TO AGREEMENT PROVIDING FOR THE
OPERATION AND MAINTENANCE OF WATER AND WASTEWATER FACILITIES
BY AND BETWEEN
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37
AND
MICHAEL WALTON**

STATE OF TEXAS

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COUNTY OF FORT BEND

THIS FIRST AMENDMENT TO AGREEMENT PROVIDING FOR THE OPERATION AND MAINTENANCE OF WATER AND WASTEWATER FACILITIES (the "First Amendment") is made and entered into as of the 20th day of April, 2005, by and between FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37 (the "District"), a political subdivision of the State of Texas organized and created pursuant to the authority of Article XVI, Section 59, Texas Constitution and operating pursuant to the provisions of Chapters 49 and 54, Texas Water Code, and MICHAEL WALTON (the "Developer"), an individual.

RECITALS

WHEREAS, effective May 19, 1999, the District and the Developer entered into that certain Agreement Providing for the Operation and Maintenance of Water and Wastewater Facilities (the "Agreement") for the purpose of the District providing certain wholesale utility services, specifically, a source of potable water and the treatment of domestic effluent to the Developer as specified therein; and

WHEREAS, the Agreement called for the Developer's purchase of water and wastewater capacity in the District's Facilities for which payments were initially to be made within three (3) years of the date of the Agreement; and

WHEREAS, the Agreement also called for the Developer's prorata share of operation and maintenance expenses to be secured by a lien on the Developer's interest in the water and sewer systems for the Development; and

WHEREAS, the Parties agree that this First Amendment to the Agreement should reflect the revised payment terms and security obligations.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by all Parties hereto, the Parties hereto have agreed to the terms hereinafter set forth, to-wit:

1. Article II, Section 2.4, is hereby amended and restated as follows:

Section 2.4. Sale of Capacity to Developer. Developer shall purchase capacity in the Wastewater Facilities sufficient to serve eighty-nine (89) equivalent single family connections at a cost of \$1,250.00 per connection. Payment for each connection shall be due before such connection is made to Developer's wastewater collection system, and payment for all eighty-nine (89) connections shall be due not later May 13, 2006. Payment of this amount shall be secured by an irrevocable letter of credit issued in the name of the District by a financial institution acceptable to the District and in a form approved by the District's Board of Directors within thirty (30) days after the date of this Agreement. As connections are purchased, the pro rata share of each Party's capacity shall be adjusted.

2. Article III, Section 3.4, is hereby amended and restated as follows:

Section 3.4. Sale of Capacity to Developer. Developer shall purchase capacity in the Water Facilities sufficient to serve eighty-nine (89) equivalent single family connections at a cost of \$1,000.00 per connection. Payment for each connection shall be due before such connection is made to Developer's water distribution system, and payment for all eighty-nine (89) connections shall be due not later than May 13, 2006. Payment of this amount shall be secured by an irrevocable letter of credit issued in the name of the District by a financial institution acceptable to the District and in a form approved by the District's Board of Directors within thirty (30) days after the date of this Agreement.

3. Article V, Section 5.2, is hereby amended and restated as follows:

Section 5.2. Charges for Water and Wastewater Services. Developer will pay a prorata share (1) of operation and maintenance expenses as determined by the District's Bookkeeper of the Water Facilities (based on either metered flow rates or connections) and (2) of the Wastewater Facilities (based on connections). Such obligation to pay a prorata share of operation and maintenance expenses shall be secured by a lien on the Developer's rights to capacity in the District's system.

4. Except as provided herein, the Agreement shall remain unmodified and is acknowledged by the Parties to be in full force and effect

5. This First Amendment shall be effective as of the 20th day April, 2005.


(EXECUTION PAGES FOLLOW)

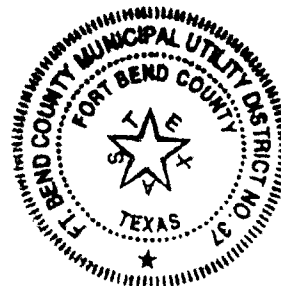
IN WITNESS WHEREOF, the Parties have executed this First Amendment in multiple copies each of which shall be deemed an original.

**FORT BEND COUNTY
MUNICIPAL UTILITY DISTRICT NO. 37**

By: 
President, Board of Directors

ATTEST:

By: 
Secretary, Board of Directors



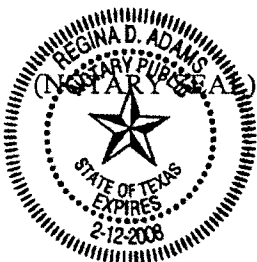
STATE OF TEXAS

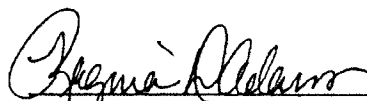
COUNTY OF FORT BEND

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BEFORE ME, the undersigned authority, on this day personally appeared Kenneth L. Comeaux, President of Fort Bend County Municipal Utility District No. 37, a political subdivision, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Fort Bend County Municipal Utility District No. 37.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 18th day of May, 2005.




Notary Public in and for the State of Texas

MICHAEL WALTON



STATE OF TEXAS

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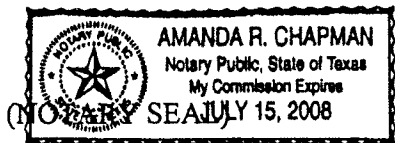
COUNTY OF FORT BEND

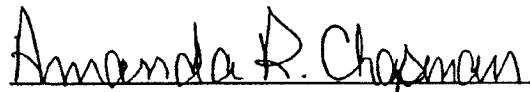
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BEFORE ME, the undersigned authority, on this day personally appeared Michael Walton, an individual, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 8th day of June, 2005.




Notary Public in and for the State of Texas

**AGREEMENT PROVIDING FOR THE OPERATION
AND MAINTENANCE OF
WATER AND WASTEWATER FACILITIES
BY AND BETWEEN
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37
AND MICHAEL WALTON**

**THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §**

This Agreement (hereinafter called "Agreement") is made and entered into as of this 19th day of May, 1999, by and between **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37** (the "District") of Fort Bend County, Texas, a conservation and reclamation district, operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended, and the authority of Article XVI, Section 59, of the Texas Constitution, and **MICHAEL WALTON** ("Developer"), an individual, (hereinafter collectively referred to as the "Parties").

WHEREAS, the Developer proposes to develop approximately eighty-nine (89) residential estate type lots that will be sold to builders who will offer homes for sale on a 162 acre tract located north of Green-Busch and west of Roesner Road in Fort Bend County, Texas ("the Development"); and

WHEREAS, the Developer seeks to obtain, and the District is able and willing to provide, certain wholesale utility services, specifically, a source of potable water and the treatment of domestic effluent, for the Development; and

WHEREAS, retail utility services will be furnished to the customers located within the Development via an investor owned utility, which will hold the Certificate of Convenience and Necessity ("CCN") as required by Chapter 13 of the Texas Water Code, be responsible for the operation, maintenance and repair of the water and wastewater utility systems within the Development, operate its sewage lift station, collect payments from customers and pay pro rata operation and maintenance costs to the District; and

WHEREAS, the Parties desire to further the policies of the State of Texas and the Texas Natural Resource Conservation Commission in encouraging the implementation and use of regional or centralized water production and treatment and wastewater treatment and disposal facilities; and

WHEREAS, each of the Parties hereto has determined that it has such authority as is necessary to enter into this Agreement for the purposes set forth herein and has determined that the terms and conditions of this Agreement are desirable, fair and advantageous.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits in this Agreement, the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATIONS

Section 1.1. Definitions: Unless the context requires otherwise, the following terms and phrases used in this Agreement shall have meanings as follows:

- (1) The term "*customer*" means any person who is served by the Water or Wastewater Facilities.
- (2) The term "*equivalent single family residential connection*" means the amount of water and sewage usage attributable to any building or structure expressed in equivalent units of water and sewage usage attributable to a single family residential connection, as such equivalent usage may be determined from time to time by the Engineer for the District in accordance with accepted engineering practice and regulatory criteria.
- (3) The term "*Developer*" means Michael Walton, an individual and developer of the 162 acre tract located north of Green-Busch and west of Roesner Road in Fort Bend County, Texas.
- (4) The term "*District*" means Fort Bend County Municipal Utility District No. 37 of Fort Bend County, Texas and includes any other municipal corporation, political subdivision, public body or other public agency at any time succeeding to the property and principal rights, powers, and obligations of the District and, where applicable, means the Board of Directors or governing body of the District or any successor municipal corporation, political subdivision, public body or public agency.
- (5) The term "*domestic sewage*" means water-borne solids and liquids discharged from the sanitary conveniences of residential dwellings (i.e. wastewater that generally consists of no more than 200 milligrams per liter of biological oxygen demand and no more than 200 milligrams per liter of total suspended solids).
- (6) The term "*Industrial Waste*" means water-borne solids, liquids or gaseous wastes resulting from and discharged, permitted to flow or escaping from any industrial, commercial, manufacturing or food processing operation or process, from the development of any natural resource, or any mixture of these with water or domestic sewage, as distinct from domestic sewage.
- (7) The term, "*infiltration*" means water or other matter which leaks into the sanitary sewer collection system(s), and which is not a result of a direct customer discharge from an appropriate discharge point.

- (8) The term "*inflow*" means water or other matter which enters into the sanitary sewer collection system(s) through manholes, cleanouts, or other above-ground openings, and which is not a result of direct customer discharge from an appropriate discharge point.
- (9) The term "*operation and maintenance expenses*" means all reasonable costs and expenses incurred in or allocable to the operation and maintenance of the Water and Wastewater Facilities, including without limitation, wages, salaries, per diems, chemicals, the purchase and transporting of materials and supplies, power, supervision, engineering, testing, auditing, bookkeeping fees, legal fees and associated expenses, franchises, waste disposal charges or assessments, sludge disposal, claims, insurance, operator compensation, regulatory fees, permit fees, mowing and maintenance expenses associated with the Water and Wastewater Plant Sites and the roadways leading to same, and all other items and other expenses of a like or different nature reasonably required or desirable for the efficient operation and maintenance of the Water and Wastewater Facilities in full compliance with all regulatory requirements and the performance of the provisions of this Agreement; repairs, replacements and painting; and all such general and administrative expenses of the District allocable to the operation and maintenance of the Water and Wastewater Facilities. Operation and maintenance expenses may specifically include a reasonable operating reserve which may be replenished as the District deems necessary.
- (10) The terms "*Party*" or "*Parties*" mean the District and Developer or either one of those individually as the context may require.
- (11) The term "*Party's pro rata share*" when used in connection with the Wastewater Facilities shall mean each Party's ownership interest in the Wastewater Facilities expressed in terms of a percentage determined by the following formula:

$$\text{Party's pro rata share} = \frac{\text{Party's Residential Connections Served}}{\text{Total of all Residential Connections Served}}$$

For purposes of this calculation, each Party's clubhouse shall be counted as one residential connection, and, with respect to the Developer, a residential connection shall be counted as served when such connection has been purchased from the District.

- (12) The term "*Party's pro rata share*" when used in connection with the Water Facilities shall mean each Party's ownership interest in the capacity of the Water Facilities expressed in terms of a percentage determined by the following formula:

$$\text{Party's pro rata share} = \frac{\text{Party's Water Usage}}{\text{Total Water Usage}}$$

For purposes of this calculation, the Developer's water usage may be estimated or deemed based on number of residential connections served until build-out.

- (13) The term "*person*" means any individual, public or private corporation, district, authority, political subdivision or other agency or entity of the State of Texas or the United States of America; any incorporated city, town or village, whether operating under general law or under its home-rule charter; and any partnership, association, firm, trust, estate or any other entity whatsoever.
- (14) The term "*potable water*" means treated water that is safe for human consumption and which meets all requirements of regulatory agencies having jurisdiction over such water.
- (15) The term "*rates*" means the rates, fees, charges and related terms and conditions established from time to time for water and wastewater services provided pursuant to this Agreement.
- (16) The term "*regulatory requirement*" means the requirements and provisions of any state or federal law, and any permits, rules, orders or regulations issued or adopted from time to time by any regulatory authority, state, federal or other, having jurisdiction concerning water quality standards or the discharge of wastewater or effluent into any receiving waters or otherwise having jurisdiction over the Water or Wastewater Facilities.
- (17) The term "*sanitary sewer collection system(s)*" when used in connection with one or more of the Parties hereto means the sanitary sewer system(s) now owned or to be constructed or acquired by each Party, including the sanitary sewers (but excluding storm sewers), manholes, intercepting sewers, pumping works, lift stations and all other works and equipment within and without the boundaries or service area of each Party for the collection and transportation of waste to the Wastewater Facilities, together with all extensions thereof and additions thereto, but shall not be construed to become part of the Wastewater Facilities, except as described herein.
- (18) The term "*Service Area*" when applied to the District means the area within the District's boundaries and when applied to Developer means that 162 acre tract located north of Green-Busch and west of Roesner Road in Fort Bend County, Texas, being developed by the Developer.
- (19) The term "*sewage*" means the liquid and water-carried domestic waste discharged from sanitary conveniences of dwellings and buildings connected to a sanitary sewer collection system.
- (20) The term "*single family residential connection*" means a structure designed for residential use as a single family unit and which has sanitary facilities which are or will be connected to the Party's sanitary sewer collection system.
- (21) The term "*Texas Natural Resource Conservation Commission*" or "*TNRCC*" means the Texas Natural Resource Conservation Commission or any successor or successors exercising any of its duties and functions.

- (22) The term "*wastewater*" means sewage collected by a sanitary sewer collection system.
- (23) The term "*wastewater treatment*" means any wastewater, transportation, treatment, disposal or related services furnished or made available by the Wastewater Facilities.
- (24) The term "*Wastewater Facilities*" means all or any part of any transportation, treatment, or disposal system(s) or disposal facilities whether or not physically interconnected, which have been or will be constructed or acquired by or on behalf of the District on the District's Wastewater Treatment Plant Site, including, but not limited to, the process units, equipment, buildings, and all related works, appurtenances, sites, rights-of-way, and easements; and any and all facilities on such site designed for receiving, transporting, treating and disposing of waste collected by the sanitary sewer collection systems of the Parties, together with such extensions, enlargements and modifications as may be required in the future or as may be necessary to comply with any regulatory requirements, and includes the lift station to which the Developer delivers its wastewater, along with the sanitary sewer line from such lift station to the plant site.
- (25) The term "*Water Facilities*" means all or any part of any water production, transportation, or treatment facilities whether or not physically interconnected, which have been or will be constructed or acquired by or on behalf of the District on the District's Water Plant Site, including, but not limited to, wells, storage tanks, pumps, electrical equipment, and all related works, appurtenances, sites, rights-of-way, and easements; and any and all facilities on such site designed for receiving, transporting, and treating water, together with such extensions, enlargements and modifications as may be required in the future or as may be necessary to comply with any regulatory requirements, and includes that portion of the twelve inch (12") water line from the Water Plant Site to the point of interconnection and meter at the Developer's water system.

Section 1.2. Titles and Headings. The titles and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof.

Section 1.3. Interpretation. This Agreement and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement. The Parties agree that this Agreement shall not be construed in favor of or against any Party on the basis that the Party did or did not author the Agreement. Nothing in this Agreement shall be construed to violate any state or federal statutory provisions or any provision of the state or federal constitutions and all acts done pursuant to this Agreement shall be performed in such manner as to conform thereto whether expressly provided or not.

ARTICLE 2 WASTEWATER FACILITIES TO SERVE PARTIES

Section 2.1. General Statement. The Parties shall individually construct, own, operate and maintain sanitary sewer collection and conveyance systems serving areas within their respective service areas. The Parties agree to cooperate to enable the District to construct, improve, enlarge, extend, repair, operate and maintain the Wastewater Facilities while this Agreement is in force and effect so as to provide wastewater treatment services to satisfy the requirements of the sanitary sewer collection systems of the Parties.

Section 2.2. Title to Wastewater Facilities and Waste Discharge Permits. It is expressly agreed that the District shall be the sole owner of the title to the Wastewater Facilities, including enlargements, extensions or improvements thereto, and all related appurtenances, sites, rights-of-way and easements shall vest in the District, and shall be held in the name of the District. Each of the Parties, however, shall own an undivided interest in the capacity of the Wastewater Facilities equal to each respective Party's pro rata share of the capacity in the Wastewater Facilities. All permits necessary to operate the Wastewater Facilities shall remain in the name of the District.

Section 2.3. Existing Capacity of Parties. The Parties agree that as of the date hereof each Party owns an undivided interest in and the right to utilize capacity of the Wastewater Facilities in the following proportional amounts:

<u>Party</u>	<u>Percentages</u>
District	100 %
<u>Developer</u>	<u>0 %</u>
TOTAL	100 %

Section 2.4. Sale of Capacity to Developer. Developer shall purchase capacity in the Wastewater Facilities sufficient to serve eighty-nine (89) equivalent single family connections at a cost of \$1,250.00 per connection. Payment for each connection shall be due before such connection is made to Developer's wastewater collection system, and payment for all eighty-nine (89) connections shall be due not later than three (3) years from the date of this Agreement. Payment of this amount shall be secured by an irrevokable letter of credit issued in the name of the District by a financial institution acceptable to the District and in a form approved by the District's Board of Directors within thirty (30) days after the date of this Agreement. As connections are purchased, the pro rata share of each Party's capacity shall be adjusted.

ARTICLE 3 WATER FACILITIES TO SERVE PARTIES

Section 3.1. General Statement. The Parties shall individually construct, own, operate and maintain water mains and distribution lines serving areas within their respective service areas. The Parties agree to cooperate as provided in this Agreement, so as to enable the District to construct, improve, enlarge, extend, repair, operate and maintain the Water Facilities while this Agreement is in force and effect to provide potable water to satisfy the requirements of the Parties.

Section 3.2. Title to Water Facilities and Regulatory Permits. It is expressly agreed that the District shall be the sole owner of title to the Water Facilities, including enlargements, extensions or improvements thereto, and all related appurtenances, sites, rights-of-way and easements shall vest in the District, and shall be held in the name of the District. Each of the Parties, however, shall own an undivided interest in the capacity of the Water Facilities equal to each respective Party's pro rata share of the capacity in the Water Facilities. All permits necessary to operate the Water Facilities shall remain in the name of the District.

Section 3.3. Existing Capacity of Parties. The Parties agree that as of the date hereof each Party owns an undivided interest in and the right to utilize the capacity of the Water Facilities in the following proportional amounts:

<u>Party</u>	<u>Percentages</u>
District	100 %
<u>Developer</u>	<u>0 %</u>
TOTAL	100 %

Section 3.4. Sale of Capacity to Developer. Developer shall purchase capacity in the Water Facilities sufficient to serve eighty-nine (89) equivalent single family connections at a cost of \$1,000.00 per connection. Payment for each connection shall be due before such connection is made to Developer's water distribution system, and payment for all eighty-nine (89) connections shall be due not later than three (3) years from the date of this Agreement. Payment of this amount shall be secured by an irrevocable letter of credit issued in the name of the District by a financial institution acceptable to the District and in a form approved by the District's Board of Directors within thirty (30) days after the date of this Agreement.

ARTICLE 4 CONSTRUCTION OF INDIVIDUAL WATER DISTRIBUTION AND WASTEWATER COLLECTION SYSTEMS, CONNECTION TO DISTRICT'S SYSTEM AND FUNDING OF CAPITAL IMPROVEMENTS

Section 4.1. Construction and Maintenance of Water Distribution and Wastewater Collection Systems. Each Party shall be solely responsible for the cost of the construction, ownership, maintenance and operation of the water distribution and wastewater collection systems necessary to provide utility service in each Party's service area. Such water distribution and wastewater collection systems and any additions thereto shall be constructed and maintained in accordance with plans and specifications approved by the TNRCC or other appropriate regulatory agency with copies of such plans and specifications provided to the District's Engineer at least thirty (30) days prior to the commencement of construction.

Section 4.2. Connection to District's System. The Developer shall be solely responsible for the cost of connecting Developer's water distribution and wastewater collection system to the District's water distribution and wastewater collection system. It is agreed by the Parties that a water meter will be necessary at the point of interconnection between the District's water distribution system and Developer's water distribution system. Developer shall pay for and install the water meter, after

approval by the District's Engineer, and then assign ownership of said meter to the District to be considered part of the Water Facilities.

Section 4.3. Up-rating of Wastewater Facilities. The Parties acknowledge that, in order to effectuate this Agreement, it may be necessary to up-rate the capacity of the Wastewater Facilities to 200,000 gpd, the cost of which is estimated to be \$15,000.00. Developer and the District agree to split the actual cost of up-rating the capacity of the Wastewater Facilities based on the ratio of anticipated connections of each Party (approximately 450 for the District and 89 for Developer). It is further agreed that the cost of such up-rating will not be incurred until at least one (1) year after the date of this Agreement.

Section 4.4. General Statement as to Capital Improvements. The Parties agree that the Water and Wastewater Facilities must comply fully with all regulatory requirements, and the Parties recognize that regulatory requirements will change from time to time. It is understood and acknowledged by the Parties that it is the District's philosophy to have an ongoing capital improvements program so that the Water and Wastewater Facilities are maintained in good condition and needed improvements timely made. The District believes that absent catastrophic events, such a philosophy will obviate the need for any excessive expenditures in the nature of reconstructing an entire plant or a significant portion thereof and the need for issuance of additional bonds, in favor of a more level and controlled spending program over the years.

Section 4.5. Determination of Capital Improvements Required. The District shall be responsible for determining from time to time the necessity for obtaining required funds to acquire, construct, improve, enlarge, extend, modify or repair the Water and Wastewater Facilities to comply with any regulatory requirement or to improve operations. Before making such a determination of necessity, the District shall obtain a written report with the recommendations of its consulting engineers concerning the applicable regulatory requirements and the proposed water and wastewater facilities which, in the opinion of its consulting engineers, should be provided to comply with the regulatory requirements. The District shall promptly notify the Parties of any such determination of necessity by providing a copy of the report of its consulting engineers to the Parties and by providing the Parties with a cost estimate setting forth in reasonable detail the estimated costs of construction of such improvements, enlargements, extensions, modifications or repairs. Such cost estimates shall also set forth each Party's pro rata share of such estimated costs of construction.

Section 4.6. Provisions of Funds by Parties for Capital Improvements. After the Parties are notified of the determination of necessity and related data, each Party shall be billed for its pro rata share of the estimated costs of construction of required improvements or facilities. Such pro rata share shall be determined according to the estimated respective percentages of water flow rates and sewer connections for the current status of the District and the built out status of the Development. Developer shall provide payment of its share of the estimated costs as expeditiously as possible but no later than the date of the award of any construction contract under this Article. Developer's obligation to pay a pro rata share of capital improvement costs shall be secured by a lien on the Developer's interest in the water and sewer systems for the Development, including Developer's rights to capacity from the District.

ARTICLE 5

CHARGES FOR WATER AND WASTEWATER SERVICE

Section 5.1. General Statement. Developer recognizes and hereby commits to pay the charges for water and wastewater services billed by the District, and to set the rate or rates for water and wastewater treatment services to be furnished and made available to the customers within its service area so that the gross revenues received therefrom will at all times be not less than an amount sufficient to pay or provide for the payment of all operation and maintenance expenses of its pro rata share of the Water and Wastewater Facilities.

Section 5.2. Charges for Water and Wastewater Services. Developer will pay a pro rata share (1) of operation and maintenance expenses as determined by the District's Bookkeeper of the Water Facilities (based on either metered flow rates or connections) and (2) of the Wastewater Facilities (based on connections). Such obligation to pay a pro rata share of operation and maintenance expenses shall be secured by a lien on the Developer's interest in the water and sewer systems for the Development, including the rights to capacity from the District.

Section 5.3. Billing and Payment of Operation and Maintenance Expenses. No later than the start of each fiscal year, the District shall adopt a budget detailing expected operation and maintenance costs. Within one (1) week before the monthly District meeting, Developer will pay to the District its pro rata share of the budgeted amount of the expenses for which it will be responsible. Within thirty (30) days after all actual amounts are available, any differences will be reconciled by payment or other arrangements agreeable to the Parties.

Section 5.4. Delinquency in Payment. Each Party or other person responsible for payment of any bills shall pay interest on its past due bills at the rate of ten percent (10%) per annum, together with reasonable attorney's fee incurred in the collection thereof. Upon failure to pay any bills due the District on or before their due date, the District may give notice of such delinquent bills to such person or Party in writing, and if all bills due and unpaid are not paid within thirty (30) days after deposit of such notice in the United States mail, properly stamped and addressed to the person or Party to be notified, then the District shall be authorized to institute proceedings for the collection thereof and to pursue any other available legal remedy which may be appropriate, including, but not limited to, suspension of additional connections to that Party's sanitary sewer collection system until all bills have been paid in full and the foreclosure of any interest pledged to secure payment of such bills.

Section 5.5. Operating Expense, Source of Payment and Sufficiency of Income. The Parties agree, represent and covenant reciprocally that as far as applicable under the law, all charges required to be paid by them under this Agreement for water production or wastewater treatment services shall constitute proper operating expenses of their respective waterworks and sanitary sewer collection systems and shall be payable as an operating expense from the income from their respective waterworks and sanitary sewer systems, as authorized by the Constitution and laws of the State of Texas. The Parties further agree to adjust and maintain from time to time the rates charged to the customers of their respective waterworks and sanitary sewer systems such that the income therefrom shall at all times be sufficient to promptly pay or make provision for the prompt payment of all such rates and charges when and as the same become due and payable.

Section 5.6. Examination of Books and Records. The Parties shall have the right during reasonable business hours and after reasonable notice, to examine the books, records and charts of the District to the extent necessary to verify the accuracy of any statement, charge or computation made pursuant to the provisions of any Section herein. If any such examination reveals any inaccuracy in such billings theretofore made, the necessary adjustment in such billings shall be promptly made; provided, that no adjustment for any billing shall be made after two (2) years from its rendition.

Section 5.7. Payments by Parties Unconditional. All sums payable under this Agreement to the District shall be paid by the Parties without set-off, counterclaim, abatement, suspension or diminution. If a Party disputes the amount to be paid to the District, such Party shall nonetheless promptly make payments as billed by the District and reserve the right to request the District at the next regular meeting to reconsider the amount paid.

ARTICLE 6

QUANTITY, MEASUREMENT, REGULATION AND TITLE OF WASTEWATER

Section 6.1. Quantity. While this Agreement is in force and effect, Developer shall be entitled to discharge, and the District shall receive and take at the point of interconnection between Developer's wastewater collection system and the District's Wastewater Collection System, all domestic sewage which is collected by Developer's sanitary sewer collection system within its service area; provided, however, that such waste shall not be discharged at any rate or rates of flow in excess of that portion of the actual hydraulic capacity of the Wastewater Facilities which is owned by Developer. The average quantity of waste (in terms of gallons per day) which may be discharged by each Party into the Wastewater Facilities and the maximum quantity of waste (in terms of gallons per day and gallons per minute) which may be discharged into the Wastewater Facilities shall be determined from time to time by the District.

The Parties agree to regulate extensions of their respective sanitary sewer collection systems and to prohibit additional connections to their respective sanitary sewer collection systems requiring capacity in excess of the capacity of the Wastewater Facilities available for providing wastewater treatment services to them. Developer shall provide the District with notice of all proposed extensions of its respective sanitary sewer collection systems prior to making such extensions. In the event Developer fails to police its sanitary sewer collection system so as to prevent the collection and discharge of waste in excess of the capacity owned by it, the District shall be authorized to pursue such remedies as are necessary to prevent the discharge by Developer of waste in excess of the capacity owned by Developer in the Wastewater Facilities, including, but not limited to, the restriction of flow permitted at the point of interconnection or the imposition of a moratorium on new connections by the Developer.

Section 6.2. Sewer Connection Rules and Regulations. The Parties covenant and agree that each will adopt and enforce rules and regulations to insure that: (1) connections to their respective sanitary sewer collection systems will be such and only such as to prevent the discharge into their respective systems of anything except domestic sewage; (2) no drains shall be installed or connected in such manner that any rainwater or other surface waters are permitted to enter such systems; and (3) adequate safeguards will be taken to prevent any abnormal seepage, inflow, infiltration or discharge

of any liquid or solid matter into their respective systems. The Parties shall further operate and maintain their respective sanitary sewer collection systems in good condition and shall promptly repair any leaks or breaks therein and shall undertake such action as may be required to control unreasonable inflow, infiltration or seepage into their respective sanitary sewer collection systems. By execution of this Agreement, the Developer hereby grants to the District a right of ingress and egress through the Development to inspect the Developer's system. If the District determines at any time that an inflow or infiltration problem exists, the District may provide for inflow/infiltration monitoring and analysis of any or all of the sanitary sewer collection systems. In the event the District is able to identify which Party's system is responsible for the inflow or infiltration, that Party shall reimburse the District for all costs of monitoring and analysis incurred. If a break or leak occurs which allows abnormal seepage, infiltration or discharge of solid matter or water into the Developer's sanitary sewer collection system and such break or leak is not repaired within thirty (30) days after notice by the District, then the District may, at its option, repair or replace the same and charge the Developer the actual cost of such repair or replacement plus ten percent (10%); however, in no event shall the District's right to repair or replace the Developer's system be construed as a duty by the District to make such repair or replacement, and Developer shall retain liability for any damages caused by its failure to timely make repairs to its system.

Section 6.3. Point(s) of Entry and Title to Waste. Developer's point of entry into the Wastewater Facilities shall be the point at which Developer's sewage delivery line connects to the District's Wastewater Collection System, such point of interconnection having first been approved by the District's Engineer. Title to all waste deliverable hereunder to the District shall remain in Developer until such waste is delivered to the point of entry, and upon passing through the point of entry, title thereto shall pass to the District. As between Developer and the District, Developer shall be in exclusive control and possession of, and solely responsible for, its wastewater until the same shall pass through its point of entry, and thereafter, the District shall be in exclusive control and possession thereof and solely responsible therefor.

ARTICLE 7

QUANTITY, MEASUREMENT, REGULATION AND TITLE OF WATER

Section 7.1. Quantity. While this Agreement is in force and effect, Developer shall be entitled to receive water at the point of interconnection between Developer's water system and the District's water system. The District shall use its best efforts to supply the quantity of water agreed to herein; however, the Developer shall not be guaranteed any specific quantity or pressure and the District shall not be held liable for any failure to furnish a specific quantity or pressure.

Section 7.2. Water Connection Rules and Regulations. The Parties covenant and agree that each will adopt and enforce rules and regulations to insure that: (1) connections to their respective water systems will be such and only such as to protect the sanitary condition of their respective systems; (2) no connections shall be made to their respective water systems without a plumbing inspection as required by the rules of the TNRCC; and (3) adequate safeguards will be taken to prevent any backflow, cross-connection or other potential health hazard. The Parties shall further operate and maintain their respective water systems in good condition and shall promptly repair any leaks or breaks therein and shall undertake such action as may be required to control any potential health hazard. By execution of this Agreement, the Developer hereby grants to the District a right of

ingress and egress through the Development to inspect the Developer's system. If a break, leak or other potential health hazard occurs in the Developer's water system and such break, leak or health hazard is not repaired within thirty (30) days after notice by the District, then the District may, at its option, repair or replace the same and charge the Developer the actual cost of such repair or replacement plus ten percent (10%); however, in no event shall the District's right to repair or replace the Developer's system be construed as a duty by the District to make such repair or replacement and the Developer shall retain liability for any damages caused by its failure to make repairs to its system.

Section 7.3. Point of Delivery and Title to Water. The point of delivery shall be the point at which Developer's water line connects to the District's Water System, such point of interconnection having first been approved by the District's Engineer. Title to all water deliverable hereunder to the Developer shall remain in District until such water is delivered to the point of delivery, and upon passing through the meter at the point of delivery, title thereto shall pass to the Developer. As between Developer and the District, District shall be in exclusive control and possession of, and solely responsible for, its water until the same shall pass through its point of delivery, and thereafter, the Developer shall be in exclusive control and possession thereof and solely responsible therefor.

ARTICLE 8 QUALITY OF WASTE

Section 8.1. Regulation of Quality of Waste. In order to permit the District to properly treat and dispose of each Party's waste, to protect the public health, to permit cooperation with other entities for the protection of the physical, chemical and bacteriological quality of public waters and watercourses, and to protect the properties of the Wastewater Facilities, the Parties agree that the quality and strength of all waste collected by their respective sanitary sewer collection systems and discharged into the Wastewater Facilities must be regulated. The Parties agree to regulate the quality and strength of the waste to be discharged into the Wastewater Facilities as may be required from time to time to permit the District to protect the Wastewater Facilities and to operate the Wastewater Facilities so as to treat and dispose of waste in compliance with the orders, rules, regulations or permits issued or adopted from time to time by any regulatory body having jurisdiction.

Section 8.2. Admissible Waste. Waste discharged into the Wastewater Facilities shall consist only of domestic sewage which is amenable to biological treatment and which meets the quality and strength limitations required by the District from time to time of customers of the Wastewater Facilities.

Section 8.3. Testing. The District shall be entitled to collect samples of waste from Developer's sanitary sewer collection system and cause the same to be analyzed by appropriate methods to determine if such waste is within the qualities specified above. If analysis discloses that the waste of Developer does not comply with the qualities specified, it will be the obligation of Developer to require the offending originator to cease discharging such waste into Developer's sanitary sewer collection system or to pre-treat such waste and to pay to the District the cost of any testing performed under this Section.

ARTICLE 9 OPERATION OF WATER AND WASTEWATER FACILITIES

Section 9.1. Standard Of Operation. The Parties recognize that the District must operate the Water and Wastewater Facilities (or cause the same to be operated) in accordance with accepted good operating practices and within the parameter defined in the permit to discharge, and therefore, the District is authorized to establish reasonable rules and regulations relating to the manner of providing water and wastewater treatment services to the Parties. The District is expressly authorized to enter into operating agreements with any duly qualified, licensed person to operate the Water and Wastewater Facilities. District shall use its best efforts to provide water meeting all applicable regulations of the TNRCC and the Safe Drinking Water Act; **however, except as expressly provided herein, District makes no warranty, express or implied, regarding the quality or delivery pressure of the water, including implied warranties of merchantability and fitness for a particular purpose.**

Section 9.2. Regulatory Action. The Parties recognize that the rendition of water and wastewater treatment services, by operation of the Water and Wastewater Facilities, is subject to all present and future permits, rules, regulations or regulatory requirements issued or adopted from time to time by any regulatory authority, and the Parties agree to cooperate to make such applications and to take such action as may be reasonably necessary to obtain compliance therewith.

Section 9.3. Fines, Penalties, Judgments, or Extraordinary Expenses. If any fines, penalties or judgments are levied or rendered against the District and/or the Parties, or any extraordinary expenses are incurred, as a result of a failure on the part of one or more, but not all, Parties to comply with the provisions of this Agreement or any rules or regulations promulgated by the District, then, as between the District and the Parties, each noncomplying Party shall be responsible for payment of such fine, penalty or judgment, and all expenses related thereto, and all such extraordinary expenses.

ARTICLE 10 MISCELLANEOUS PROVISIONS

Section 10.1. Term. Unless terminated by mutual agreement of all the Parties, this Agreement shall continue in force and effect for a period of forty (40) years from its date.

Section 10.2. Force Majeure. In the event the District or one or more of the Parties are rendered unable wholly or in part, by force majeure to carry out any of their obligations under this Agreement, then the obligations of the District or such Party or Parties, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the District or the Party or Parties whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the District and all other Parties. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall include, without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind

of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or inability on the part of the Parties to provide water necessary for the operation of their respective sanitary sewer collection systems or inability of the District to receive waste, and any other incapacities of the District or the Parties, whether similar to those enumerated or otherwise, which are not within the control of the District or the Party claiming such inability and which the District or such Party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the District or the Party having the difficulty and that the above requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party or Parties when such settlement is unfavorable in the judgment of the District or the Party having the difficulty. Force majeure shall not relieve the Parties from their obligations to pay their respective share of the operation and maintenance expenses of the Water and Wastewater Facilities or their respective capacity charges as provided in this Agreement.

Section 10.3. Arbitration. Should a dispute arise concerning any portion of this Agreement, any Party shall have the right to request that the matter constituting the dispute be submitted to binding arbitration in accordance with the rules of the American Arbitration Association and all applicable arbitration statutes.

Section 10.4. Remedies Upon Default. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all remedies, other than termination of this Agreement or suspension of sewage services at present quantities, existing at law or in equity, including specific performance and mandamus, may be availed of by the District or any Party and shall be cumulative. In the event of litigation or alternative dispute resolution proceedings, the prevailing Party or Parties shall be awarded reasonable attorneys' fees in addition to any other relief obtained.

Section 10.5. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by the District or the Parties of any term, covenant, condition, or liability hereunder, shall be deemed or construed to be a waiver of subsequent breaches or default of any kind, under any circumstances.

Section 10.6. Insurance. The District shall at all times keep insured such parts of the Water and Wastewater Facilities as are customarily insured by municipal corporations and political subdivisions in Texas operating like properties in similar locations under the same circumstances with a responsible insurance company with a Best Key Rating Guide of B+ or greater, against risks, accidents or casualties against which and to the extent insurance is customarily carried by such municipal corporations and political subdivisions. Further, the District shall carry insurance with a similarly qualified insurance company insuring against liability for bodily or personal injury or death of any person or damage to any property (including, but not limited to, persons employed by the District, the Parties or any other person, and all property owned or claimed by the District, the Parties or any other person), which liability insurance policies shall name the Parties as co-insureds. The District shall also obtain officers and directors liability coverage with a similarly qualified

insurance company for the Directors of the District while they are serving in the capacity of a Director.

Section 10.7. Address and Notice. Unless otherwise provided in this Agreement, any notice, communication, request reply, or advice (herein severally and collectively, for convenience, called "notice") herein provided or permitted to be given, made, or accepted by the Parties must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the Party to be notified, with return receipt requested, or by delivery of the same to an officer of the Party. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effected, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

Fort Bend County Municipal Utility District No. 37
c/o Johnson, Radcliffe & Petrov, L.L.P.
450 Gears Road, Suite 700
Houston, Texas 77067-4513
Phone: 281-872-1221
Fax: 281-872-1313

Michael Walton
Mustang Development
P. O. Box 1678
Cypress, Texas 77410-1678
Phone: 281-373-1088
Fax: 281-373-1099

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other Parties.

Section 10.8. Modification. This Agreement shall be subject to change or modification only with the mutual consent of the governing body of each of the Parties.

Section 10.9. Assignability. This Agreement shall not be assignable by any of the Parties without prior written consent of the governing bodies of all other Parties which consent shall not be unreasonably withheld. Such assignment shall be evidenced by each Party by including such action to assign in their respective minutes of a meeting of their governing bodies.

Section 10.10. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the Parties and shall not be construed to confer any benefit or right upon any other person.

Section 10.11. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement or the application thereof to other person or circumstances shall not be affected thereby.

Section 10.12. Merger. This Agreement constitutes the entire agreement between the Parties relative to the subject matter hereof. There have been and are no conflicting agreements, covenants, representations or warranties between the Parties other than those expressly stated herein or expressly provided for herein.

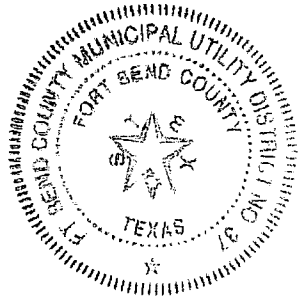
Section 10.13. Right of Entry. The District shall have the right of entry at reasonable times and upon reasonable notice in, over and across the lands, properties and facilities of the Parties for the purposes of making any inspections, connections, disconnections or reconnections permitted by this Agreement and for the purpose of performing any other functions or duties authorized by this Agreement. The Parties shall have the right of entry at reasonable times and upon reasonable notice in, over and across the lands, properties and facilities comprising the Water and Wastewater Treatment Facilities for the purpose of inspecting same.

Section 10.14. Multiple Counterparts. This Agreement may be executed in two or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart.

* * * * *

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original. This Agreement shall not become effective and binding on any Party until it has been approved and executed by all the Parties.

**FORT BEND COUNTY MUNICIPAL
UTILITY DISTRICT NO. 37**



ATTEST:

By: Thomas E. Ritter
President, Board of Directors

Marie C. Hays
Secretary, Board of Directors

Date: May 19, 1999

MICHAEL WALTON

By: Michael R. Walton

Date: 5/20/99

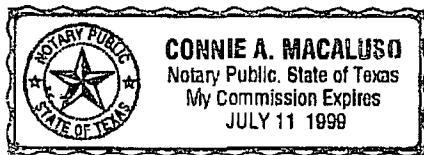
STATE OF TEXAS

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COUNTY OF FORT BEND

BEFORE ME, the undersigned authority, on this day personally appeared Thomas E. Ritter, President of Fort Bend County Municipal Utility District No. 37, a political subdivision, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 37.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 19th day of May, 1999.



Connie A. Macaluso
Notary Public in and for the State of Texas

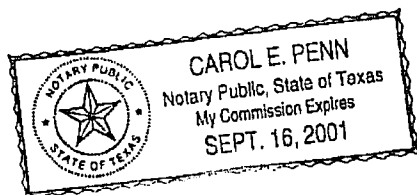
STATE OF TEXAS

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COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared Michael Walton, an individual, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he, being duly authorized executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20th day of May, 1999.



Carol E. Penn
Notary Public in and for the State of Texas

Attachment 'E'
TCEQ FMT Review Memorandum

Memo

To: Dan Smith
From: Karen Blaschke
Date: 2/3/00
Subject: FMT Check for Westside Water L.L.C.

Dan, will you, please, do an FMT check on Westside Water L.L.C. They're requesting to obtain water and sewer CCNs. This request is for 162 acres, 0 current customers and approximately 89 proposed connections (1 club house and 1 church) in the Lake Pointe Estates subdivision. Westside's developer has an agreement with Ft. Bend Co. MUD #37 to provide wholesale utility services—potable water and treatment of domestic effluent. Ft. Bend Co. MUD #37 will make improvements to their systems to provide water and sewer service to developer's anticipated 89 connections. Developer will install a meter at point of interconnect and construct a water distribution system and gravity wastewater collection system.

Thanks!

KLB

Called Ray for info. re: FMT check

NEED TO VISIT W/ CAROL IN LA BAY

OR SPAG

MISCARR TO TALK W/ TERRY THOMAS A-175 (11-12-1)

SCHEDULED TALK W/ TERRY THOMAS A-175 (11-12-1)