

“Services-Related Authorizations” means any permits or approvals relating to the Plants, the System, the Plant Sites, the Access, the Easements or which otherwise affect the provision of Services in the Project.

“Site” means, individually, the Plant Sites.

“System” means the Wastewater Treatment Plant and the Wastewater Collection System.

“Upper Trinity Regional Water District” (“District”) means the District that will sell wholesale wastewater treatment to Aqua Texas if Option B described below is chosen by Developer and Aqua Texas to be the source of wastewater treatment for the Project.

“Wastewater Treatment Plant” means all or any part of the wastewater treatment facilities which will be constructed on the Plant Sites for treating and disposing of wastewater from the Service Area, to be constructed by Developer in compliance with Regulatory Requirements in the Service Area, together with such extensions, expansions and modifications as may be required during each phase of the Project to comply with Regulatory Requirements and/or provide Service in the Service Area, and further includes any appurtenances or facilities used in connection therewith.

“Wastewater Collection System” means all pipes, lines (including Service Lines), valves, including laterals to each lot and all related equipment and appurtenances to be constructed by Developer in compliance with Regulatory Requirements in the Service Area, together with such extensions, expansions, enlargements and modifications as may be required during each phase of the Project to comply with Regulatory Requirements and/or provide Service in the Service Area,

### **III. Obligations of Parties; Conditions and Termination**

#### **A. Developer’s Obligations**

##### **1. Regulatory Requirements**

Developer shall, upon execution of this Agreement, promptly initiate and perform without unreasonable delay the following:

- a. Developer will make application and obtain from each applicable Regulatory Agency for all necessary permits and approvals for the Project and will take all necessary steps to assure compliance with Regulatory Requirements prior to initiating construction of any part of the System. To the extent that any permits or approvals relating to the System, the Plants, the Plant Sites, the Access (hereinafter defined), the Easements (hereinafter defined) or which otherwise affect the provision of Services (“Services-Related Authorizations”) are issued in the name of Developer, Developer hereby assigns all right, title and interest in and to such Services-Related Authorizations to Aqua Texas, and shall, upon request by Aqua Texas, execute any and all documents and pay any and all costs required by the applicable Regulatory Agency to complete such assignment. Except as otherwise specifically set forth herein, Developer shall bear all costs associated with

making application for and obtaining all necessary permits and approvals for the Project excluding obtaining the CCN if necessary. Upon Developer's receipt of any Services-Related Authorizations, Developer shall promptly provide Aqua Texas with a copy thereof.

- b. Prior to construction, Developer shall deliver to Aqua Texas a copy of a Phase I Environmental Site Assessment for the Property and/or the Plant Site, which shall have been conducted by a reputable environmental engineering firm reasonably acceptable to Aqua Texas in accordance with American Society Testing Methods (ASTM) standards ("the Environmental Report"). The Environmental Report shall set forth the current environmental status of the Property. To the extent the Environmental Report is dated more than six (6) months prior to the date delivered to Aqua Texas, Developer shall deliver to Aqua Texas a certificate confirming that no changes have occurred at or with respect to the Property which could adversely affect the environmental status of the Property or the System as described in the Environmental Report. In addition, Developer shall obtain a letter or other written acknowledgement from the firm issuing the Environmental Report that shall permit Aqua Texas to rely thereon (the "Reliance Acknowledgement").
- c. Developer will make application for approval of (i) those portions of the Plan (as hereinafter defined) requiring approval by a Regulatory Agency with the applicable Regulatory Agency; and (ii) if applicable, the construction of the Plants and the System with the TCEQ and any other applicable Regulatory Agency, each as approved by the Aqua Texas Engineer in accordance with this Section III.A.1.c. Developer shall not submit (i) and (ii) immediately above unless and until such time as the Aqua Texas Engineer has approved the application and the Plan, which approval shall not be unreasonably withheld or delayed, except for matters relating to System design and specifications, which approval may be withheld in the Aqua Texas Engineer's sole discretion.
- d. Developer shall provide any further reasonable and prompt assistance to Aqua Texas in maintaining its CCN and other permits by providing relevant information to Aqua Texas promptly upon request.

## 2. Development and Construction

- a. Developer and Aqua Texas will mutually determine how wastewater for the project shall be provided by choosing between Option A which is the construction of a wastewater treatment plant, or Option B which is the provision of wholesale wastewater treatment by the District if such treatment capacity is made available within a time frame mutually agreed upon by Developer and Aqua Texas. Should Option B be chosen, Developer will negotiate with the District for the price of the wholesale wastewater treatment, which price shall be approved by Aqua Texas in its sole discretion. After one of the Options has been chosen by Developer and Aqua Texas, Developer shall provide Aqua Texas with a development plan and schedule for each phase of development of the Project, the Plants, and the System (the "Plan") and fund the design of all wastewater service components to Aqua Texas' specifications. As a condition of proceeding with its obligation hereunder, the Plan shall be reviewed and approved by the Aqua Texas Engineer. The Plan shall provide for adequate System development during each phase of the Project in order to provide

adequate Services to Customers as each portion of the Service Area is developed and shall include Plant design and specifications, the System design and specifications and plan drawings of the Plant and the System.

- b. Developer shall be responsible for all engineering, design and specifications of and for the System (such engineering, design and specifications being referred to herein as the "System Plan"). Developer shall deliver to Aqua Texas the System Plan for Aqua Texas' review and written approval, which approval shall not be unreasonably withheld or delayed. After Aqua Texas approves the System Plan and Developer commences construction of the System, Developer shall not modify the System Plan in any material respect without obtaining the prior written consent of Aqua Texas, which consent shall not be unreasonably withheld or delayed. Any costs associated with any modification or change made by Developer in the System Plan after the approval of Aqua Texas and the Aqua Texas Engineer, and after construction has commenced, shall be borne solely by Developer. Developer shall ensure that the System Plan complies with all Regulatory Requirements. Further, Developer shall ensure that the Wastewater Collection System is designed to and does properly tie into the Wastewater Treatment Plant.
- c. Upon receipt of all approvals contemplated by Section III.A.1.c, Developer shall submit the Plan (as approved by the applicable Regulatory Agency and previously approved by the Aqua Texas Engineer in accordance with Section III.A.1.c), three (3) copies of the recorded plat for the Property, the Environmental Report, the Reliance Acknowledgment, all Services-Related Authorizations, a copy of the approval letter to construct the System and evidence of all necessary approvals of the Plan by the TCEQ and any other applicable Regulatory Agency, to the Aqua Texas Engineer for approval, and shall not initiate any construction of any applicable phase of the System or any applicable portion of the Project until such approval is obtained and all applicable Regulatory Requirements met. Aqua Texas will diligently review, comment upon and suggest revision to all wastewater utility plans including, but not limited to, the Plant and the Wastewater Collection System. The approval by the Aqua Texas Engineer for purposes of this Section III.A.2.c shall not be unreasonably withheld or delayed, provided, however, the provisions of Sections III.D.2.c shall apply if the Project is changed from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer approval is provided pursuant to Section III.A.1.c. The review and/or approval by the Aqua Texas Engineer of the Plan, the System design and specifications or other documents set forth herein shall not relieve Developer of any responsibilities under Section III.A, and shall not be construed as any waiver or release on the part of Aqua Texas of any duty or obligation on the part of Developer, or any right of Aqua Texas, under this Agreement.
- d. Developer shall construct the Wastewater Treatment Plant and the System necessary to treat and dispose of 100% of the wastewater of the Project in accordance with the Plan as approved by the Aqua Texas Engineer and in compliance with all Regulatory Requirements. Developer shall construct the Plant and the System and all portions and components thereof (excluding the Service Lines) in (i) platted public utility easements or rights-of-way or (ii) utility easements dedicated exclusively to Aqua Texas and its successors and assigns, all of which must comply with all Regulatory Requirements or (iii)

in land leased or conveyed to Aqua Texas for this purpose. At Developer's expense, the Aqua Texas Engineer shall have the right to inspect and disapprove any work on the Plant and the System during construction which is not in conformance with the Plan approved by Aqua Texas and the applicable Regulatory Agency or which otherwise fails to comply with Regulatory Requirements.

- e. Upon completion of construction of the Plant and the System, and before Aqua Texas has any obligation to provide Services to the Project, Developer shall provide the Plant Site and the System to Aqua Texas: (i) surveyed and staked including vertical datum to the Site, (i.e., Site temporary benchmark); (ii) cleared and leveled; (iii) with electrical service adequate for the efficient operation and maintenance of the Plant (including such service as may be necessary for expansions thereof, if any, required to provide Services for the Service Area) available to the electrical service pole(s) set on the Plant Site; (iv) improved with an all weather road from the point of the proposed entrance gate for the Plant to be located on the applicable Site (the "Plant Entrance") to the public roadway from which Aqua Texas shall have the unrestricted right of ingress and egress; and (v) with satisfactory drainage and appurtenances reasonably necessary for the operation and maintenance of the Plant, including that which may be reasonably necessary for expansions thereof, if any, required to provide Services to the Service Area.

### 3. Property Restrictions and Easements

- a. Developer shall create and record permanent deed or other land use restrictions or other binding covenants within the Property which shall run with the land that (i) prohibit the construction of private wastewater systems thereon without the prior written approval of Aqua Texas or its successors or assigns and (ii) require the purchaser of each lot in the Project to maintain, repair and replace the Service Lines for such lot.
- b. Prior to commencement of construction of any applicable phase of the Plant and the System by Developer, Developer shall obtain and convey to Aqua Texas any and all easements necessary to access, construct, repair, replace, operate and maintain the System (excluding the Service Lines) and the Plant in compliance with Regulatory Requirements. Unless otherwise stated in this Agreement, all such easements shall be exclusive. Without limiting the generality of the foregoing, Developer shall obtain dedicated public utility easements for the location of the System and all portions and components thereof (excluding the Service Lines). All of the foregoing easements are collectively referred to herein as the "Easements."

### 4. Conveyance of Plant Site and Easements

Immediately following the issuance of all required approvals and satisfaction of all Regulatory Requirements and prior to construction of the System and the Plant, Developer shall convey to Aqua Texas, by special warranty deed, fee simple, indefeasible title to the Plant Site. The Plant Site, when conveyed to Aqua Texas by Developer, shall be required to have unrestricted access to one or more public roadways for ingress, egress and utilities either, at Aqua Texas' option, by Developer (a) conveying or causing to be conveyed to Aqua Texas by special warranty

deed, as part of the Site, real property directly adjoining a public roadway which connects such roadway to the applicable Plant entrance and is of sufficient size to construct, replace, repair, operate and maintain an all weather road and the utility services necessary for the operation and maintenance of the Plant, or (b) granting or causing to be granted to Aqua Texas and its successors and assigns one or more perpetual and exclusive ingress, egress and utility easement(s) directly adjoining a public roadway which connects such roadway to the property boundary for the Site and is of sufficient size to construct, replace, repair, operate and maintain an all weather road and the utility services necessary for the operation and maintenance of the Plant. The access described in the immediately preceding sentence shall be referred to herein as the "Access". In addition, Developer shall convey or assign to Aqua Texas at such time the Easements and any and all Access and Utility Easements in a form reasonably acceptable to Aqua Texas.

As part of the conveyances and assignments of the Easements and any other real property that may be conveyed to Aqua Texas with respect to the Project, and as a condition precedent to Aqua Texas's obligations hereunder, Developer shall be required to additionally deliver to Aqua Texas the following for each such parcel of real property conveyed or assigned:

- 1) Immediate possession thereof, free and clear of all liens, encumbrances, mortgages, deeds of trust and restrictions, except those restrictions required hereunder;
- 2) Evidence of payment of all real estate taxes and assessments attributable thereto prior to the date Aqua Texas accepts the conveyance or assignment;
- 3) An extended owner's title insurance commitment and policy therefore insuring marketable title and issued to Aqua Texas by a reputable title insurance company (the "Title Company") reasonably acceptable to Aqua Texas in an insured amount equal to the fair market value of the property at the time of conveyance or assignment. Developer shall execute such documents and take such actions as Aqua Texas and/or the Title Company may request to effectuate the foregoing. Upon the request of Aqua Texas, following completion of each phase of construction, Developer shall cause the insured amount of such policy to be increased by an amount equal to the total Cost of Construction for any improvements constructed thereon;
- 4) Copies of all recorded deed and land use restrictions and binding and restrictive covenants required by the terms of this Agreement; and
- 5) In the event that Developer has obtained any loan or encumbrance in connection with any property to be conveyed or otherwise transferred hereunder, Developer shall provide to Aqua Texas adequate proof of the removal of such encumbrance and/or release of the relevant lien holder at the time of conveyance or assignment. The real property to be conveyed to Aqua Texas hereunder shall be exempt from regular or special assessments under the declarations of any property owner's association Developer may form for the property.

Aqua Texas shall not be required to accept any conveyance or assignment until Developer

makes all the foregoing deliveries to Aqua Texas and otherwise complies with the terms of this Agreement as applicable thereto. All risk of loss for the System, the Access and the Easements shall remain with Developer until the conveyance or assignment thereof is accepted by Aqua Texas.

5. Title to the Water Treatment Plant and the System

Throughout each phase of development of the Project, upon completion of each portion of the Plant and the System in accordance with the Plan, Developer shall provide to the Aqua Texas Engineer a notarized certificate of completion which: (a) specifically describes the applicable portion of the Plant and/or the System completed; (b) contains a certification of the Costs of Construction associated with the applicable portion of the Plant and/or the System with documentary evidence thereof attached; (c) provides and attaches copies of lien waivers executed by each contractor, subcontractor and supplier providing materials or labor for the construction of the applicable portion of the Plant and/or the System, or, in the alternative, other proof of payment information acceptable to the Aqua Texas Engineer; (d) contains a certification of Developer that construction of the applicable portion of the Plant and/or the System was completed in accordance with all terms and conditions of this Agreement and the Plan; and (e) attaches three (3) complete sets of as-built drawings for the applicable portion of the Plant and/or the System completed showing specific locations, both horizontal and vertical, of all facilities relating to such portion of the Plant and/or the System, including all valves, lines, laterals and other fittings (the "Certificate of Completion"). Upon verification of the matters set forth in the Certificate of Completion and written acceptance of the Certificate of Completion by the Aqua Texas Engineer, Developer shall, via Bill of Sale, convey all right, title and interest in and to the applicable portion of the Plant and/or the System completed during such phase upon terms and conditions acceptable to Aqua Texas. Developer shall cause such title to pass to Aqua Texas free and clear of all liens, encumbrances, security interests and restrictions and Developer shall provide Aqua Texas lien search results evidencing the same. All risk of loss for the Plant and/or the System shall remain with Developer until the conveyance thereof is accepted by Aqua Texas. Notwithstanding the foregoing, Developer shall, upon request by Aqua Texas, execute any and all documents necessary to evidence and to give full force and effect to such transfer of title.

6. Expenses

Developer shall perform all its obligations under this Section at its sole cost and expense subject to reimbursement by Aqua Texas as provided herein.

B. Aqua Texas Obligations

1. Regulatory Requirements

- a. Aqua Texas has certification from the TCEQ for the CCN covering the Service Area, including the Aqua Texas Tariff.

b. If requested, Aqua Texas shall provide technical support and assistance to Developer in the preparation of applications for other Services-Related Authorizations that are the responsibility of Developer.

c. Aqua Texas shall fund inspections during construction and installation to minimize potential infiltration and inflow and water leak problems.

d. Aqua Texas shall apply for and pursue all regulatory approvals and/or certifications required of Aqua Texas under this Agreement in good faith.

## 2. Services

Subject to the other terms and conditions of this Agreement, Aqua Texas shall provide Services to the Service Area in accordance with the Aqua Texas Tariff. Services hereunder shall be provided for the Project in phases following the completion of construction of each applicable portion of the System and each applicable portion of the Plant.

## 3. Expenses

Subject to Section III.B.2, Aqua Texas shall perform its obligations under Section III.B at Aqua Texas's sole cost and expense.

## C. Payment Obligations

### 1. Reimbursements

To the extent consistent with the Aqua Texas Tariff (a current copy of which has been provided to Developer on or prior to the Effective Date), Aqua Texas will pay Developer a one-time fee per lot for Customers who actually begin to receive wastewater Services in the Service Area ("active connections"), and for which Aqua Texas receives a wastewater tap payment, for a period not to exceed the earlier to occur of (a) eighty-four (84) months from the Effective Date of this Agreement or (b) the date upon which Developer has completed 578 active connections, the amount of \$1,750.00 as a Lot Reimbursement Fee. Aqua Texas shall, on a calendar quarterly basis, pay the applicable Lot Reimbursement Fee to Developer for each Customer who begins receiving Services within the prior calendar quarter. Aqua Texas shall only be required to pay Lot Reimbursement Fees for Customers who actually begin to receive wastewater Services from Aqua Texas. Aqua Texas' obligations under this section shall automatically terminate 84 months from the Effective Date or when 578 active wastewater connections have been completed, whichever shall occur first. Aqua Texas' obligation to reimburse Developer shall be limited to this Section III.C.1.

### 2. Condemnation or Sale

In the event that a city or municipality annexes all or any portion of the Service Area and a condemnation or sale results following Aqua Texas acceptance of the conveyance and assignment of the System and real property pursuant to this Agreement, Aqua Texas shall be entitled to receive and retain all of the compensation paid for the condemnation or sale of (i) the System, the Access, the Easements, the CCN(s), the subsidence permit(s) (if applicable), the Services-Related Authorizations or any portion of any of the foregoing or (ii) anything otherwise relating to the Services.

#### D. Conditions and Termination

##### 1. Conditions

With respect to each phase of development of the Project, Aqua shall not be required to commence or provide Services for such phase or fulfill any other obligation under this Agreement which is required to be performed by Aqua Texas after the commencement of construction of the applicable portion of the System for such phase unless and until all the following conditions (collectively, the “Conditions”) are satisfied:

- a. The Parties obtain all permits, authorizations, and approvals required by any Regulatory Agency or to satisfy any Regulatory Requirements in accordance with Section III.
- b. Developer has made delivery of all required documents and information required pursuant to the Agreement.
- c. The Aqua Texas Engineer has given all approvals required in accordance with this Agreement.
- d. The conveyances and assignments have been made by Developer and accepted by Aqua Texas in accordance with Section III.

Should Aqua Texas fail to require the satisfaction of one or more of the Conditions prior to commencement of Service for any phase of development of the Project, such failure shall not constitute a waiver of any obligation of Developer with respect to such Condition. **Notwithstanding anything herein to the contrary, in the event Developer commences construction of any phase of the System or any phase of the Project before all of the Conditions are satisfied that relate to such phase of the Project, Developer shall bear the risk of any loss or damage sustained as a result thereof.**

##### 2. Termination



- a. This Agreement may be terminated by the Party or Parties indicated by written notice, without penalty, liability or further obligation to either Party, upon the happening of any one of the following events:
  - (i) Either Party may terminate if (A) a Party, through no fault of its own, is unable to obtain any required permit, authorization, or approval required by any Regulatory Agency or is unable to satisfy any Regulatory Requirements in accordance with Section III within twenty-four (24) months after the initial application filing therefore, or (B) if any Regulatory Agency denies any required permit, authorization or approval.
  - (ii) At any time, Aqua Texas may terminate if any permit, authorization or approval required by any Regulatory Agency is contested, is vigorously defended in good faith by Aqua Texas, and Aqua Texas loses. In the event Aqua Texas terminates this agreement, then Aqua Texas shall take such actions as are reasonably necessary to relinquish its rights to the CCN for the Service Area.
- b. In the event of a material breach of this Agreement at any time by either Party, the non-breaching Party shall have the right to terminate this Agreement by giving forty-five (45) days' prior written notice (the "Notice Period") to the breaching Party, which notice shall include reasonable details of such breach; provided, however, in the event (i) the breaching Party cures such breach within the Notice Period, or (ii) if the breach is of a type that it is not commercially practicable to cure such breach within the Notice Period, the breaching Party takes reasonable steps to cure such breach, such termination notice shall be deemed withdrawn and of no further force of effect. The right of termination pursuant to this Section III.D.2.b shall be in addition to any other rights or remedies available at law or in equity.
- c. This Agreement may be terminated by Aqua Texas if, for any reason or at any time, the scope of the Project is materially changed by Developer from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer's approval is provided pursuant to Section III.A.1.c, which, in either event, adversely affects Aqua Texas, as determined in Aqua Texas' reasonable discretion. Notwithstanding the foregoing, if, in either case, the Project is changed by Developer from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer's approval is provided pursuant to Section III.A.1.c, solely as a result of changes required (i) by the applicable Regulatory Agency or (ii) to comply with Regulatory Requirements, Aqua Texas shall not be entitled to recover damages.
- d. Notwithstanding the foregoing, any termination provided for under this Section III.D.2 shall only terminate the rights and obligations of the Parties under the Agreement with respect to the phase(s) of development of the Project for which Services are not then being provided by Aqua Texas. Once Aqua Texas has commenced Services for a phase of development of the Project, the portions of this Agreement applicable to such phase(s) are not subject to termination hereunder.

#### **IV. Representations and Warranties**

#### A. Developer's Representations and Warranties

In connection with the transactions contemplated by this Agreement and in order to induce Aqua Texas to enter into this Agreement, Developer hereby makes the following representations and warranties to Aqua Texas, as of the Effective Date and continuously thereafter (except for representations and warranties expressly and specifically relating to a specific time, which shall be made as of such specific time):

1. As of the Effective Date, Developer has the authority to enter into this Agreement.
2. Developer has or shall have as of the date of conveyance or transfer, good and indefeasible title to and the right to convey or transfer the Plant Sites, the Easements and the Access, the System, and all related permits, authorizations and warranties, and any other property, real or personal, tangible or intangible, conveyed or transferred pursuant to this Agreement. Developer shall make any and all such conveyances and transfers free and clear of all liens, encumbrances, security interests, mortgages, deeds of trust and restrictions, except those restrictions required hereunder.
3. Developer shall perform its obligations under this Agreement in compliance with all Regulatory Requirements and other applicable law.
4. Developer shall construct and deliver the System, and shall cause the contractor to warrant the applicable portion of the System for a period of one (1) year from the date of conveyance of such applicable portion to Aqua Texas, in good working order, free of defects, in accordance with applicable industry standards, suitable and adequate for fulfilling the needs of Aqua Texas in the provision of Services in the Service Area, and constructed and capable of operating in compliance with all Regulatory Requirements at the time of conveyance to Aqua Texas (pursuant to Section III.A.5).
5. Developer has adequate funding to complete the Project.
6. To the best of Developer's knowledge and belief, no information, documents, representations, warranties, covenants or materials, regardless of form or how presented, which it provides to Aqua Texas relating to the transactions contemplated by this Agreement contains any untrue statement of a material fact or fails to state a material fact.
7. With respect to the real property and/or easements to be conveyed and/or assigned to Aqua Texas hereunder, including without limitation the System, the Access and the Easements, that:
  - a. The use and occupancy thereof for the purposes contemplated in this Agreement are in compliance with all applicable Regulatory Requirements;
  - b. There are no pending or, to the best of Developer's knowledge and belief, threatened assessments, charges, eminent domain or condemnation proceedings or environmental claims with respect thereto;

- c. There currently are and, to the best of Developer's knowledge and belief, no "hazardous materials" (which shall include words of similar import, as such is or are defined under applicable Regulatory Requirements) used, stored or released thereon or therein, and there have been and currently are no detrimental environmental conditions, thereon or therein; and
- d. With respect to the real property and/or easements to be conveyed and/or assigned to Aqua Texas hereunder, all are of a sufficient nature, condition and quantity necessary to permit Aqua Texas to efficiently own, operate and maintain the System and provide Services in the Service Area.
- e. The real property to be conveyed to Aqua Texas hereunder shall be exempt from regular or special assessments under the declarations of any property owner's association Developer may form for the Property.

**B. Aqua Texas's Representations and Warranties**

In connection with the transactions contemplated by this Agreement and in order to induce Developer to enter into this Agreement, Aqua Texas hereby makes the following representations and warranties to Developer, as of the Effective Date and continuously thereafter (except for representations and warranties expressly and specifically relating to a specific time, which shall be made as of such specific time):

- 1. Aqua Texas has the authority to enter into this Agreement.
- 2. Aqua Texas shall perform its obligations under this Agreement in compliance with all Regulatory Requirements.
- 3. To the best of Aqua Texas' knowledge and belief, no information, documents, representations, warranties, covenants or materials, regardless of form or how presented, which it provides to Developer relating to the transactions contemplated by this Agreement contains any untrue statement of a material fact or fails to state a material fact.
- 4. Aqua Texas has the CCN for the wastewater service to the Project.
- 5. Aqua Texas holds a Wastewater Permit issued by TCEQ.
- 6. Aqua Texas holds a Lease to a Wastewater Plant Site.

**C. Third Party Warranties**

Developer shall, to the maximum extent possible, assign all manufacturer, distributor and contractor warranties related to the System to Aqua Texas.

#### **D. LIMITATION OF WARRANTIES**

EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION IV, THE PARTIES MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED.

#### **V. LIMITATION OF LIABILITY**

DEVELOPER AGREES THAT AQUA TEXAS SHALL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM OR RELATED TO: (A) DEVELOPER'S FAILURE TO FULFILL ITS OBLIGATIONS UNDER THIS AGREEMENT; (B) DEVELOPER'S BREACH OF WARRANTIES UNDER THIS AGREEMENT; (C) THE ACTION OR INACTION OF ANY THIRD PARTY SELECTED AND/OR ENGAGED BY DEVELOPER. NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST SAVINGS) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **VI. Indemnification**

Each Party (the "Indemnifying Party") agrees to the extent covered by insurance to indemnify, defend and hold harmless the other Party, its shareholders, officers, directors, partners, members, managers, employees and agents (the "Indemnified Party"), from and against any and all damages, claims, losses, expenses, costs, obligations, fines, civil penalties and liabilities (including, without limitation, reasonable attorneys' fees) (individually, a "Claim" and collectively, "Claims"), suffered directly or indirectly by reason of, or arising out of: (A) the Indemnifying Party's breach of any representation or warranty made in this Agreement; (B) any employee taxes or unemployment insurance related to the Indemnifying Party's employees; or (C) the Indemnifying Party's or its employees', agents', representatives' or subcontractors' negligent acts or omissions or willful misconduct. The preceding indemnification obligations are contingent upon the Indemnified Party: (AA) giving written notice to the Indemnifying Party of any such Claim or Claims; (BB) having the right to participate in the defense of any such Claim or Claims at its own expense; (CC) reasonably cooperating in the defense of any such Claim or Claims; and (DD) obtaining the prior written approval of the Indemnifying Party of any settlement or offer of settlement. The provisions of this Section VI shall survive the expiration or termination of this Agreement, and shall apply regardless of the existence or applicability of any insurance or deductible thereto.

#### **VII. General Terms and Conditions**

##### **A. Term**

This Agreement shall be effective upon the Effective Date and shall continue in full force and effect until the Parties have fulfilled all of their respective obligations hereunder (excluding the obligation to provide Services as provided herein) unless terminated earlier in accordance with the provisions set forth herein.

**B. Assignability; No Third Party Beneficiaries**

Developer may not assign this Agreement without the prior written consent of Aqua Texas, which consent shall not be unreasonably withheld or delayed. Aqua Texas may not assign this Agreement without the prior written consent of Developer, which consent shall not be unreasonably withheld or delayed. This limitation on assignment shall not apply to any assignment by Aqua Texas to one of its affiliated entities. This Agreement shall bind and benefit the Parties hereto and their permitted successors and assigns. This Agreement shall be for the sole and exclusive benefit of the Parties hereto and their legal successors and assigns and shall not be construed to confer any rights upon any third party.

**C. Choice of Law and Venue**

This Agreement shall be governed by and interpreted in accordance with laws of the State of Texas, without giving effect to any conflict of laws provisions. Any litigation hereunder shall be brought in a court with jurisdiction in the State of Texas.

**D. Notices**

All notices and other communications required or permitted hereunder or necessary or convenient in connection herewith shall be in writing and shall be deemed to have been given when hand delivered, sent by facsimile with evidence of receipt, sent by reputable overnight courier with signature of recipient required or mailed by registered or certified mail, as follows (provided that notice of change of address shall be deemed given only when received):

If to Aqua Texas to:   Attention to:   Robert L. Laughman  
                                  Company:       Aqua Texas, Inc.  
                                  Address:       1106 Clayton Lane, Suite 400W  
                                  City/State/Zip: Austin, Texas 78723  
                                  Telephone:     512.990.4400  
                                  FAX:           512.990.4410

If to Developer to:    Attention to:   James L. Mabrey  
                                  Company:       Denton County 128 Development, LLC  
                                  Address:       5956 Sherry Lane, Suite 1000  
                                  City/State/Zip Dallas, Texas 75225  
                                  Telephone:  
                                  FAX:

or to such other names or addresses as Aqua Texas or Developer, as the case may be, shall designate by notice to each other person entitled to receive notices in the manner specified in this Section IX.D.

**E. Counterparts**

This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, shall bear the signatures of Developer and Aqua Texas. This Agreement may be

executed in two or more counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument.

#### F. Severability

If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, then (1) the same shall not affect other terms or provisions of this Agreement and (2) such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements of the Parties set forth herein.

#### G. No Waiver

No delay or failure by either Party to exercise any right, remedy or power herein shall impair such Party's right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving Party and then only to the extent expressly set forth in such writing.

#### H. Force Majeure

If a Party is rendered unable, wholly or in part, to carry out any of its obligations (other than a financial obligation) under this Agreement because of a force majeure event (the "Affected Party"), then the obligations of the Affected Party shall be suspended to the extent affected by, and for the duration of, such force majeure event. The Affected Party shall give notice to the other Party of the force majeure event as soon as practicable, and shall use all reasonable efforts to remedy the effects of such force majeure event. A "force majeure event" means natural disasters, strikes or other labor disturbances, riots, fires, wars, embargoes, delays of carriers, failure of power or of regular sources of supply, acts, injunctions or restraints of government, acts of the public enemy, insurrections, riots, epidemics, landslides, hurricanes, tornadoes, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary for operation of the System or any other cause preventing such performance, beyond the Affected Party's reasonable control. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Affected Party, and that the above requirement that any force majeure event shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to any demands relating thereto when such settlement is unfavorable to it in the judgment of the Affected Party.

#### I. Incorporation; Entire Agreement

This Agreement, including the main body of this Agreement and any and all addenda, exhibits or attachments, which have been agreed to and executed by an authorized representative of each Party, represent the entire agreement between the Parties with respect to the subject matter set forth herein,

and supercede all prior agreements with respect thereto. This Agreement may not be modified or supplemented except by a writing executed by both Parties.

J. Other Agreements

Aqua Texas retains the right to enter into similar agreements or any other agreements with any person or entity for similar development projects or for any other legitimate purpose.

K. Survival

All provisions of this Agreement that by their nature survive termination or expiration of this Agreement, shall so survive.

L. Further Assurances

After the Effective Date and upon the reasonable request of a Party hereto, the other Party shall execute and deliver such documents as are reasonably necessary to effectuate the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement as of the date first above written.

AQUA TEXAS, INC.

DENTON COUNTY 128 DEVELOPMENT LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Robert L. Laughman, President

James L. Mabrey, Managing Member

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **WATER SUPPLY AGREEMENT**

This Water Supply Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 (the “Effective Date”) by and between Aqua Texas, Inc. (“Aqua Texas”), a Texas corporation, and Denton County 128 Development, LLC (“Developer”), a Texas limited liability company. Aqua Texas and Developer are sometimes referred to herein individually as a “Party” and collectively as “Parties.”

### **I. Recitals**

WHEREAS, Aqua Texas is a public utility company engaged in the business of installing, owning, operating and maintaining water and wastewater utility systems in the State of Texas in accordance with the grant of authority by the Texas Commission on Environmental Quality (the “TCEQ”);

WHEREAS, Developer owns certain real property consisting of 128.01 acres of land in Denton County, Texas, more particularly described in the attached Exhibit A (the “Property”) and locally known as Prosper Point Subdivision;

WHEREAS, Developer intends to develop the Property with the construction of a residential housing subdivision consisting of 578 single family dwelling units, an 11,000 square foot commercial center, and a community activity center, (the “Project”) that will require the provisioning of potable water and Developer desires Aqua Texas to provide such Services subject to the terms and conditions contained herein; and

WHEREAS, Aqua Texas desires to provide potable water subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and intending to be legally bound hereby, Developer and Aqua Texas hereby agree as follows:

### **II. Definitions**

Certain capitalized terms used herein but not otherwise defined shall have the following meanings:

“Aqua Texas Engineer” means the individual(s) or entity (ies) designated and authorized by Aqua Texas to review and approve or reject engineering plans, and/or oversee and manage construction and installation to the extent of Aqua Texas’ rights and obligations in connection with this Agreement.

“Aqua Texas Tariff” means the schedule establishing water service rates and terms and conditions of service adopted by Aqua Texas and approved by the TCEQ from time to time and utilized by Aqua Texas to charge Customers for Services within the Service Area. Aqua Texas will provide a copy of the Aqua Texas Tariff to Developer upon request.



“CCN” means the certificate of convenience and necessity required by the TCEQ prior to Aqua Texas providing Services in the Service Area.

“Costs of Construction” means the actual costs associated with the design and construction of the System and any expansion thereof necessary to provide Services within the Service Area in the various phases of development of the Project, including, without limitation, the cost of constructing and equipping such facilities, and, in later phases of development of the Project, modernizing, improving or upgrading such facility as required, the cost of acquiring necessary licenses, permits or amendments thereto required as a result of any such construction, legal, advertising, engineering and material testing costs, site costs, easements and all other costs and expenses directly related to the foregoing.

“Customer” means any person or entity in the Service Area receiving Services from Aqua Texas or entitled to receive Services under the Aqua Texas Tariff and any applicable regulatory rules and regulations of the TCEQ. This definition includes homebuilders or eventual home occupiers.

“Plants” mean, collectively, the Water Treatment Plant(s) and the water well(s).

“Plant Sites” mean collectively, the three (3) tracts of land shown on the attached Exhibit B designated for the location of the Plants to be conveyed by Developer by special warranty deed to Aqua Texas. The Plant Sites, whose location is subject to change as required by the Development and agreed to by the parties, must be sufficient to provide an adequate supply of potable water to the Service Area, as well as mandatory flows at hydrants established pursuant to Texas Health and Safety Code Section 341.0358, and shall also include the water rights and other appurtenances associated therewith.

“Regulatory Agency” means any regulatory authority, federal, state, local or other, having jurisdiction concerning water standards, fire safety, other environmental matters, real estate, zoning or otherwise having jurisdiction over the Project, the Property, the Plant Sites, the Access (as hereinafter defined), the Easements (as hereinafter defined), the Plants, the System, and/or the Services.

“Regulatory Requirements” mean any and all of the following issued, adopted or required from time to time by any Regulatory Agency: (i) the requirements or provisions of any and all state, federal and local laws, regulations, rules, orders, and ordinances; (ii) permits; and (iii) CCN(s).

“Sanitary Control Easement” means an easement for real property located within one hundred sixty (160) feet of a public water supply well location and which prevents the use of property therein in accordance with Regulatory Requirements. Such easement shall fully describe the location of the well and surrounding property and be duly filed in accordance with all applicable real property laws, regulations and procedures in the applicable county’s recording system for real property.

“Section 2 Certification Date” means the date on which Developer certifies to Aqua Texas in writing that it has completed construction of the Plants and the Water Distribution System with respect to Section 2 of the Project in accordance with the terms and conditions of this Agreement.

“Service Area” shall mean or refer to all or any portion of the Property or Project in which, during any applicable phase of development of the Project, Aqua Texas provides or intends to provide Services to Customers. The Service Area shall initially be the property described in Exhibit “A” hereto which will be platted as Prosper Point.

“Service Lines” mean the lines on each lot in the Project running from the house, dwelling unit, improvement or other structure to the curb box. These Service Lines shall be owned, maintained, repaired and replaced by the lot owner and Aqua Texas shall have no responsibility therefore.

“Services” mean potable water provided to Customers.

“Site” means, individually, the Plant Sites.

“System” means the Water Distribution System.

“TCEQ Approval Date” means the date on which the TCEQ approves construction of the System.

“Upper Trinity Regional Water District” (“District”) means the District that will sell wholesale water to Aqua Texas if Option A described below is chosen by Developer and Aqua Texas to be the source of water for the Project.

“Water Distribution System” means all wells, pipes, lines, valves, including laterals to each lot terminating at an approved AMR meter box or vault, an approved locking curb stop and all related equipment and appurtenances to be constructed by Developer in compliance with Regulatory Requirements in the Service Area, together with such extensions, expansions, enlargements, and modifications as may be required during each phase of the Project to comply with any Regulatory Requirements and/or provide Services in the Service Area.

“Water Treatment Plant” means all or any part of the water production and water treatment facilities which will be constructed on the Plant Sites for producing, storing, pressurizing, and/or treating water for distribution to the Service Area, together with such extensions, expansions and modifications as may be required during each phase of the Project to comply with Regulatory Requirements and/or provide Services in the Service Area, and further includes any appurtenances or facilities used in connection therewith.

### **III. Obligations of Parties; Conditions and Termination**

#### **A. Developer’s Obligations**

##### **1. Regulatory Requirements**

Developer shall, upon execution of this Agreement, promptly initiate and perform without unreasonable delay the following:

- a. Developer will make application and obtain from each applicable Regulatory Agency for all necessary permits and approvals for the Project (excluding the CCN(s) and will take all necessary steps to assure compliance with Regulatory Requirements prior to initiating construction of any part of the System. To the extent that any permits or approvals relating to the System, the Plants, the Plant Sites, the Access (hereinafter defined), the Easements (hereinafter defined) or which otherwise affect the provision of Services (“Services-Related Authorizations”) are issued in the name of Developer, Developer hereby assigns all right, title and interest in and to such Services-Related Authorizations to Aqua Texas, and shall, upon request by Aqua Texas, execute any and all documents and pay any and all costs required by the applicable Regulatory Agency to complete such assignment. Except as otherwise specifically set forth herein, Developer shall bear all costs associated with making application for and obtaining all necessary permits and approvals for the Project excluding obtaining the CCN if necessary. Upon Developer’s receipt of any Services-Related Authorizations, Developer shall promptly provide Aqua Texas with a copy thereof.
  - b. Prior to construction, Developer shall deliver to Aqua Texas a copy of a Phase I Environmental Site Assessment for the Property and/or the Plant Site, which shall have been conducted by a reputable environmental engineering firm reasonably acceptable to Aqua Texas in accordance with American Society Testing Methods (ASTM) standards (“the Environmental Report”). The Environmental Report shall set forth the current environmental status of the Property. To the extent the Environmental Report is dated more than six (6) months prior to the date delivered to Aqua Texas, Developer shall deliver to Aqua Texas a certificate confirming that no changes have occurred at or with respect to the Property which could adversely affect the environmental status of the Property or the System as described in the Environmental Report. In addition, Developer shall obtain a letter or other written acknowledgement from the firm issuing the Environmental Report that shall permit Aqua Texas to rely thereon (the “Reliance Acknowledgement”).
  - c. Developer will make application for approval of (i) those portions of the Plan (as hereinafter defined) requiring approval by a Regulatory Agency with the applicable Regulatory Agency; and (ii) the construction of the Plants and the System with the TCEQ and any other applicable Regulatory Agency, each as approved by the Aqua Texas Engineer in accordance with this Section III.A.1.c. Developer shall not submit (i) and (ii) immediately above unless and until such time as the Aqua Texas Engineer has approved the application and the Plan, which approval shall not be unreasonably withheld or delayed, except for matters relating to System design and specifications, which approval may be withheld in the Aqua Texas Engineer’s sole discretion.
  - d. Developer shall provide any further reasonable and prompt assistance to Aqua Texas in maintaining its CCN and obtaining other well drilling permits by providing relevant information to Aqua Texas promptly upon request.
2. Development and Construction

- a. Developer and Aqua Texas will mutually determine how water to the project shall be provided by choosing between Option A which is the purchase of wholesale water from the District through a line from the District's main line to the water system for the Project, or Option B which is the drilling of wells on the Property. Developer will negotiate with the District for the price of the wholesale water, the amount of which shall be approved by Aqua Texas in its sole discretion. After one of the Options has been chosen by Developer and Aqua Texas, Developer shall provide Aqua Texas with a development plan and schedule for each phase of development of the Project, the Plants, and the System (the "Plan") and fund the design of all water service components to Aqua Texas' specifications. The Plan shall provide for adequate System development during each phase of the Project in order to provide adequate Services to Customers as each portion of the Service Area is developed and shall include the Plant's design and specifications, the System design and specifications and plan drawings of the Plants and the System.
- b. Developer shall ensure that the Plan complies with all Regulatory Requirements. Further, Developer shall ensure that the Water Distribution System is designed to and does properly tie into the Water Treatment Plants.
- c. Upon receipt of all approvals contemplated by Section III.A.1.c, Developer shall submit the Plan (as approved by the applicable Regulatory Agency and previously approved by the Aqua Texas Engineer in accordance with Section III.A.1.c), three (3) copies of the recorded plat for the Property, the Environmental Report, the Reliance Acknowledgment, all Services-Related Authorizations, a copy of the approval letter to construct the System and evidence of all necessary approvals of the Plan by the TCEQ and any other applicable Regulatory Agency, to the Aqua Texas Engineer for approval, and shall not initiate any construction of any applicable phase of the System or any applicable portion of the Project until such approval is obtained and all applicable Regulatory Requirements met. Aqua Texas will diligently review, comment upon and suggest revision to all water utility plans including, but not limited to, the Plants, the Water Distribution System and any necessary ground storage tanks. The approval by the Aqua Texas Engineer for purposes of this Section III.A.2.c shall not be unreasonably withheld or delayed, provided, however, the provisions of Sections III.D.2.c shall apply if the Project is changed from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer approval is provided pursuant to Section III.A.1.c. The review and/or approval by the Aqua Texas Engineer of the Plan, the System design and specifications or other documents set forth herein shall not relieve Developer of any responsibilities under Section III.A, and shall not be construed as any waiver or release on the part of Aqua Texas of any duty or obligation on the part of Developer, or any right of Aqua Texas, under this Agreement.
- d. Developer shall construct the Plants and the System necessary to supply 100% of the needs of the Project in accordance with the Plan as approved by the Aqua Texas Engineer and in compliance with all Regulatory Requirements. Developer shall construct the Plants and the System and all portions and components thereof (excluding the Service Lines) in dedicated public utility easements or in property conveyed to Aqua Texas that comply with all Regulatory Requirements. At Developer's expense, the Aqua Texas Engineer shall have the right to inspect and disapprove any work on the Plants and the

System during construction which is not in conformance with the Plan approved by Aqua Texas and the applicable Regulatory Agency or which otherwise fails to comply with Regulatory Requirements.

- e. Upon completion of construction of the Plants and the System, and before Aqua Texas has any obligation to provide Services to the Project, Developer shall provide the Plant Sites and the System to Aqua Texas: (i) surveyed and staked including vertical datum to the Site, (i.e., Site temporary benchmark); (ii) cleared and leveled; (iii) with electrical service adequate for the efficient operation and maintenance of the Plants (including such service as may be necessary for expansions thereof, if any, required to provide Services for the Service Area) available to the electrical service pole(s) set on the Plant Sites; (iv) improved with an all weather road from the point of the proposed entrance gate for the Plants to be located on the applicable Site (the "Plant Entrance") to the public roadway from which Aqua Texas shall have the unrestricted right of ingress and egress; and (v) with satisfactory drainage and appurtenances reasonably necessary for the operation and maintenance of the Plants, including that which may be reasonably necessary for expansions thereof, if any, required to provide Services to the Service Area.
- f. The Parties acknowledge and agree that the Plants and System shall be designed and constructed in a manner to provide the necessary flows at hydrants for the Project in accordance with Texas Health and Safety Code Section 341.0358, and associated regulatory requirements.

### 3. Property Restrictions and Easements

- a. Developer shall create and record permanent deed or other land use restrictions or other binding covenants within the Property which shall run with the land that (i) prohibit the construction of private water systems thereon without the prior written approval of Aqua Texas or its successors or assigns and (ii) require the purchaser of each lot in the Project to maintain, repair and replace the Service Lines for such lot.
- b. Prior to commencement of construction of any applicable phase of the Plants and the System by Developer, Developer shall obtain and convey to Aqua Texas any and all easements necessary to access, construct, repair, replace, operate and maintain the System (excluding the Service Lines) and the Plants in compliance with Regulatory Requirements. Unless otherwise stated in this Agreement, all such easements shall be exclusive. Without limiting the generality of the foregoing, Developer shall obtain dedicated public utility easements for the location of the System and all portions and components thereof (excluding the Service Lines). Developer shall create and record, prior to construction, a permanent Sanitary Control Easement for each water well Site in conformance with 30 T.A.C. §290.41 (c)(1), as such may be amended from time to time. All of the foregoing easements are collectively referred to herein as the "Easements."

### 4. Conveyance of Plant Site and Easements

Immediately following the issuance of all required approvals and satisfaction of all Regulatory Requirements and prior to construction of the System and the Plants, Developer shall convey to Aqua Texas, by special warranty deed, fee simple, indefeasible title to the Plant Sites. The Plant Sites, when conveyed to Aqua Texas by Developer, shall be required to have unrestricted access to one or more public roadways for ingress, egress and utilities either, at Aqua Texas' option, by Developer (a) conveying or causing to be conveyed to Aqua Texas by special warranty deed, as part of the Site, real property directly adjoining a public roadway which connects such roadway to the applicable Plant entrance and is of sufficient size to construct, replace, repair, operate and maintain an all weather road and the utility services necessary for the operation and maintenance of the Plants, or (b) granting or causing to be granted to Aqua Texas and its successors and assigns one or more perpetual and exclusive ingress, egress and utility easement(s) directly adjoining a public roadway which connects such roadway to the property boundary for the Site and is of sufficient size to construct, replace, repair, operate and maintain an all weather road and the utility services necessary for the operation and maintenance of the Plants. The access described in the immediately preceding sentence shall be referred to herein as the "Access". In addition, Developer shall convey or assign to Aqua Texas at such time the Easements and any and all Access and Utility Easements in a form reasonably acceptable to Aqua Texas.

As part of the conveyances and assignments the Easements and any other real property that may be conveyed to Aqua Texas with respect to the Project, and as a condition precedent to Aqua Texas's obligations hereunder, Developer shall be required to additionally deliver to Aqua Texas the following for each such parcel of real property conveyed or assigned:

- 1) Immediate possession thereof, free and clear of all liens, encumbrances, mortgages, deeds of trust and restrictions, except those restrictions required hereunder;
- 2) Evidence of payment of all real estate taxes and assessments attributable thereto prior to the date Aqua Texas accepts the conveyance or assignment;
- 3) An extended owner's title insurance commitment and policy therefore insuring marketable title and issued to Aqua Texas by a reputable title insurance company (the "Title Company") reasonably acceptable to Aqua Texas in an insured amount equal to the fair market value of the property at the time of conveyance or assignment. Developer shall execute such documents and take such actions as Aqua Texas and/or the Title Company may request to effectuate the foregoing. Upon the request of Aqua Texas, following completion of each phase of construction, Developer shall cause the insured amount of such policy to be increased by an amount equal to the total Cost of Construction for any improvements constructed thereon;
- 4) Copies of all recorded deed and land use restrictions and binding and restrictive covenants required by the terms of this Agreement; and
- 5) In the event that Developer has obtained any loan or encumbrance in connection with any property to be conveyed or otherwise transferred hereunder, Developer shall provide to Aqua Texas adequate proof of the removal of such encumbrance and/or release of the

relevant lien holder at the time of conveyance or assignment. The real property to be conveyed to Aqua Texas hereunder shall be exempt from regular or special assessments under the declarations of any property owner's association map form for the Property.

Aqua Texas shall not be required to accept any conveyance or assignment until Developer makes all the foregoing deliveries to Aqua Texas and otherwise complies with the terms of this Agreement as applicable thereto. All risk of loss for the System, the Access and the Easements shall remain with Developer until the conveyance or assignment thereof is accepted by Aqua Texas.

5. Title to the Water Treatment Plant and the System

Throughout each phase of development of the Project, upon completion of each portion of the Plants and the System in accordance with the Plan, Developer shall provide to the Aqua Texas Engineer a notarized certificate of completion which: (a) specifically describes the applicable portion of the Plants and/or the System completed; (b) contains a certification of the Costs of Construction associated with the applicable portion of the Plants and/or the System with documentary evidence thereof attached; (c) provides and attaches copies of lien waivers executed by each contractor, subcontractor and supplier providing materials or labor for the construction of the applicable portion of the Plants and/or the System, or, in the alternative, other proof of payment information acceptable to the Aqua Texas Engineer; (d) contains a certification of Developer that construction of the applicable portion of the Plants and/or the System was completed in accordance with all terms and conditions of this Agreement and the Plan; and (e) attaches three (3) complete sets of as-built drawings for the applicable portion of the Plants and/or the System completed showing specific locations, both horizontal and vertical, of all facilities relating to such portion of the Plants and/or the System, including all valves, lines, laterals and other fittings (the "Certificate of Completion"). Upon verification of the matters set forth in the Certificate of Completion and written acceptance of the Certificate of Completion by the Aqua Texas Engineer, Developer shall, via Bill of Sale, convey all right, title and interest in and to the applicable portion of the Plants and/or the System completed during such phase upon terms and conditions acceptable to Aqua Texas. Developer shall cause such title to pass to Aqua Texas free and clear of all liens, encumbrances, security interests and restrictions and Developer shall provide Aqua Texas lien search results evidencing the same. All risk of loss for the Plants and/or the System shall remain with Developer until the conveyance thereof is accepted by Aqua Texas. Notwithstanding the foregoing, Developer shall, upon request by Aqua Texas, execute any and all documents necessary to evidence and to give full force and effect to such transfer of title.

6. Expenses

Developer shall perform all its obligations under this Section at its sole cost and expense subject to reimbursement by Aqua Texas as provided herein.

B. Aqua Texas Obligations

1. Regulatory Requirements

- a. Aqua Texas has certification from the TCEQ for the CCN covering the Service Area, including the Aqua Texas Tariff.
- b. Aqua Texas shall provide technical support and assistance to Developer in the preparation of applications for other Services-Related Authorizations that are the responsibility of Developer.
- c. Aqua Texas shall fund inspections during construction and installation to minimize potential infiltration and inflow and water leak problems.
- d. Aqua Texas shall apply for and pursue all regulatory approvals and/or certifications required of Aqua Texas under this Agreement in good faith.

## 2. Services

Subject to the other terms and conditions of this Agreement, Aqua Texas shall provide Services to the Service Area in accordance with the Aqua Texas Tariff. Services hereunder shall be provided for the Project in phases following the completion of construction of each applicable portion of the System and each applicable portion of the Plants.

## 3. Expenses

Subject to Section III.B.2, Aqua Texas shall perform its obligations under Section III.B at Aqua Texas's sole cost and expense.

## C. Payment Obligations

### 1. Reimbursements

To the extent consistent with the Aqua Texas Tariff (a current copy of which has been provided to Developer on or prior to the Effective Date), Aqua Texas will pay Developer a one-time fee per lot for Customers who actually begin to receive water Services in the Service Area ("active connections"), and for which Aqua Texas receives a water tap payment, for a period not to exceed the earlier to occur of (a) eighty-four (84) months from the Effective Date of this Agreement or (b) the date upon which Developer has completed 578 active connections, the amount of \$1,750.00 as a Lot Reimbursement Fee. Aqua Texas shall, on a calendar quarterly basis, pay the applicable Lot Reimbursement Fee to Developer for each Customer who begins receiving Services within the prior calendar quarter. Aqua Texas shall only be required to pay Lot Reimbursement Fees for Customers who actually begin to receive water Services from Aqua Texas. Aqua Texas' obligations under this section shall automatically terminate 84 months from the Effective Date or when 578 active connections have been completed, whichever shall occur first. Aqua Texas' obligation to reimburse Developer shall be limited to this Section III.C.1.

### 2. Condemnation or Sale



In the event that a city or municipality annexes all or any portion of the Service Area and a condemnation or sale results following Aqua Texas acceptance of the conveyance and assignment of the System and real property pursuant to this Agreement, Aqua Texas shall be entitled to receive and retain all of the compensation paid for the condemnation or sale of (i) the System, the Access, the Easements, the CCN(s), the subsidence permit(s) (if applicable), the water well permit(s), the Services-Related Authorizations or any portion of any of the foregoing or (ii) anything otherwise relating to the Services.

#### D. Conditions and Termination

##### 1. Conditions

With respect to each phase of development of the Project, Aqua shall not be required to commence or provide Services for such phase or fulfill any other obligation under this Agreement which is required to be performed by Aqua Texas after the commencement of construction of the applicable portion of the System for such phase unless and until all the following conditions (collectively, the "Conditions") are satisfied:

- a. The Parties obtain all permits, authorizations, and approvals required by any Regulatory Agency or to satisfy any Regulatory Requirements in accordance with Section III. Aqua Texas' obligations pursuant to this Agreement are specifically conditioned upon Developer being able to obtain all necessary water rights and water production necessary for the Project.
- b. Developer has made delivery of all required documents and information required pursuant to the Agreement.
- c. The Aqua Texas Engineer has given all approvals required in accordance with this Agreement.
- d. As provided by Developer, Aqua Texas has access to an adequate water supply for the provision of continuous potable water to the Service Area, as determined in the reasonable discretion of the Aqua Texas Engineer.
- e. The conveyances and assignments have been made by Developer and accepted by Aqua Texas in accordance with Section III.

Should Aqua Texas fail to require the satisfaction of one or more of the Conditions prior to commencement of Service for any phase of development of the Project, such failure shall not constitute a waiver of any obligation of Developer with respect to such Condition. **Notwithstanding anything herein to the contrary, in the event Developer commences construction of any phase of the System or any phase of the Project before all of the Conditions are satisfied that relate to such phase of the Project, Developer shall bear the risk of any loss or damage sustained as a result thereof.**

## 2. Termination

- a. This Agreement may be terminated by the Party or Parties indicated by written notice, without penalty, liability or further obligation to either Party, upon the happening of any one of the following events:
  - (i) Either Party may terminate if (A) a Party, through no fault of its own, is unable to obtain any required permit, authorization, or approval required by any Regulatory Agency or is unable to satisfy any Regulatory Requirements in accordance with Section III within twenty-four (24) months after the initial application filing therefore, or (B) if any Regulatory Agency denies any required permit, authorization or approval.
  - (ii) At any time, Aqua Texas may terminate if any permit, authorization or approval required by any Regulatory Agency is contested, is defended in good faith by Aqua Texas, and Aqua Texas loses. In the event Aqua Texas terminates this agreement, then Aqua Texas shall take such actions as are reasonably necessary to relinquish its rights to the CCN for the Service Area.
- b. In the event of a material breach of this Agreement at any time by either Party, the non-breaching Party shall have the right to terminate this Agreement by giving forty-five (45) days' prior written notice (the "Notice Period") to the breaching Party, which notice shall include reasonable details of such breach; provided, however, in the event (i) the breaching Party cures such breach within the Notice Period, or (ii) if the breach is of a type that it is not commercially practicable to cure such breach within the Notice Period, the breaching Party takes reasonable steps to cure such breach, such termination notice shall be deemed withdrawn and of no further force of effect. The right of termination pursuant to this Section III.D.2.b shall be in addition to any other rights or remedies available at law or in equity.
- c. This Agreement may be terminated by Aqua Texas if, for any reason or at any time, the scope of the Project is materially changed by Developer from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer's approval is provided pursuant to Section III.A.1.c, which, in either event, adversely affects Aqua Texas, as determined in Aqua Texas' reasonable discretion. Notwithstanding the foregoing, if, in either case, the Project is changed by Developer from that which is set forth in this Agreement or the Plan is changed after the Aqua Texas Engineer's approval is provided pursuant to Section III.A.1.c, solely as a result of changes required (i) by the applicable Regulatory Agency or (ii) to comply with Regulatory Requirements, Aqua Texas shall not be entitled to recover damages.
- d. Notwithstanding the foregoing, any termination provided for under this Section III.D.2 shall only terminate the rights and obligations of the Parties under the Agreement with respect to the phase(s) of development of the Project for which Services are not then being provided by Aqua Texas. Once Aqua Texas has commenced Services for a phase of development of the Project, the portions of this Agreement applicable to such phase(s) are not subject to termination hereunder.

#### **IV. Representations and Warranties**

##### **A. Developer's Representations and Warranties**

In connection with the transactions contemplated by this Agreement and in order to induce Aqua Texas to enter into this Agreement, Developer hereby makes the following representations and warranties to Aqua Texas, as of the Effective Date and continuously thereafter (except for representations and warranties expressly and specifically relating to a specific time, which shall be made as of such specific time):

1. As of the Effective Date, Developer has the authority to enter into this Agreement.
2. Developer has or shall have as of the date of conveyance or transfer, good and indefeasible title to and the right to convey or transfer the Plant Sites, the Easements and the Access, the System, and all related permits, authorizations and warranties, and any other property, real or personal, tangible or intangible, conveyed or transferred pursuant to this Agreement. Developer shall make any and all such conveyances and transfers free and clear of all liens, encumbrances, security interests, mortgages, deeds of trust and restrictions, except those restrictions required hereunder.
3. Developer shall perform its obligations under this Agreement in compliance with all Regulatory Requirements and other applicable law.
4. Developer shall construct and deliver the System, and shall cause the contractor to warrant the applicable portion of the System for a period of one (1) year from the date of conveyance of such applicable portion to Aqua Texas, in good working order, free of defects, in accordance with applicable industry standards, suitable and adequate for fulfilling the needs of Aqua Texas in the provision of Services in the Service Area, and constructed and capable of operating in compliance with all Regulatory Requirements at the time of conveyance to Aqua Texas (pursuant to Section III.A.5).
5. Developer has adequate funding to complete the Project.
6. To the best of Developer's knowledge and belief, no information, documents, representations, warranties, covenants or materials, regardless of form or how presented, which it provides to Aqua Texas relating to the transactions contemplated by this Agreement contains any untrue statement of a material fact or fails to state a material fact.
7. With respect to the real property and/or easements to be conveyed and/or assigned to Aqua Texas hereunder, including without limitation the System, the Access and the Easements, that:
  - a. The use and occupancy thereof for the purposes contemplated in this Agreement are in compliance with all applicable Regulatory Requirements;

- b. There are no pending or, to the best of Developer's knowledge and belief, threatened assessments, charges, eminent domain or condemnation proceedings or environmental claims with respect thereto;
- c. There currently are and, to the best of Developer's knowledge and belief, no "hazardous materials" (which shall include words of similar import, as such is or are defined under applicable Regulatory Requirements) used, stored or released thereon or therein, and there have been and currently are no detrimental environmental conditions, thereon or therein; and
- d. With respect to the real property and/or easements to be conveyed and/or assigned to Aqua Texas hereunder, all are of a sufficient nature, condition and quantity necessary to permit Aqua Texas to efficiently own, operate and maintain the System and provide Services in the Service Area.
- e. The real property to be conveyed to Aqua Texas hereunder shall be exempt from regular or special assessments under the declarations of any property owner's association Developer may form for the Property.

**B. Aqua Texas's Representations and Warranties**

In connection with the transactions contemplated by this Agreement and in order to induce Developer to enter into this Agreement, Aqua Texas hereby makes the following representations and warranties to Developer, as of the Effective Date and continuously thereafter (except for representations and warranties expressly and specifically relating to a specific time, which shall be made as of such specific time):

1. Aqua Texas has the authority to enter into this Agreement.
2. Aqua Texas shall perform its obligations under this Agreement in compliance with all Regulatory Requirements.
3. To the best of Aqua Texas' knowledge and belief, no information, documents, representations, warranties, covenants or materials, regardless of form or how presented, which it provides to Developer relating to the transactions contemplated by this Agreement contains any untrue statement of a material fact or fails to state a material fact.
4. Aqua Texas has the CCN for the water to the Property which requires a continuous and adequate supply of potable water.

**C. Third Party Warranties**

Developer shall, to the maximum extent possible, assign all manufacturer, distributor and contractor warranties related to the System to Aqua Texas.

#### **D. LIMITATION OF WARRANTIES**

EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION IV, THE PARTIES MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED.

#### **V. LIMITATION OF LIABILITY**

DEVELOPER AGREES THAT AQUA TEXAS SHALL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM OR RELATED TO: (A) DEVELOPER'S FAILURE TO FULFILL ITS OBLIGATIONS UNDER THIS AGREEMENT; (B) DEVELOPER'S BREACH OF WARRANTIES UNDER THIS AGREEMENT; (C) THE ACTION OR INACTION OF ANY THIRD PARTY SELECTED AND/OR ENGAGED BY DEVELOPER. NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST SAVINGS) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **VI. Indemnification**

Each Party (the "Indemnifying Party") agrees to the extent covered by insurance to indemnify, defend and hold harmless the other Party, its shareholders, officers, directors, partners, members, managers, employees and agents (the "Indemnified Party"), from and against any and all damages, claims, losses, expenses, costs, obligations, fines, civil penalties and liabilities (including, without limitation, reasonable attorneys' fees) (individually, a "Claim" and collectively, "Claims"), suffered directly or indirectly by reason of, or arising out of: (A) the Indemnifying Party's breach of any representation or warranty made in this Agreement; (B) any employee taxes or unemployment insurance related to the Indemnifying Party's employees; or (C) the Indemnifying Party's or its employees', agents', representatives' or subcontractors' negligent acts or omissions or willful misconduct. The preceding indemnification obligations are contingent upon the Indemnified Party: (AA) giving written notice to the Indemnifying Party of any such Claim or Claims; (BB) having the right to participate in the defense of any such Claim or Claims at its own expense; (CC) reasonably cooperating in the defense of any such Claim or Claims; and (DD) obtaining the prior written approval of the Indemnifying Party of any settlement or offer of settlement. The provisions of this Section VI shall survive the expiration or termination of this Agreement, and shall apply regardless of the existence or applicability of any insurance or deductible thereto.

#### **VII. General Terms and Conditions**

##### **A. Term**

This Agreement shall be effective upon the Effective Date and shall continue in full force and effect until the Parties have fulfilled all of their respective obligations hereunder (excluding the obligation to provide Services as provided herein) unless terminated earlier in accordance with the provisions set forth herein.

B. Assignability; No Third Party Beneficiaries

Developer may not assign this Agreement without the prior written consent of Aqua Texas, which consent shall not be unreasonably withheld or delayed. Aqua Texas may not assign this Agreement without the prior written consent of Developer, which consent shall not be unreasonably withheld or delayed. This limitation on assignment shall not apply to any assignment by Aqua Texas to one of its affiliated entities. This Agreement shall bind and benefit the Parties hereto and their permitted successors and assigns. This Agreement shall be for the sole and exclusive benefit of the Parties hereto and their legal successors and assigns and shall not be construed to confer any rights upon any third party.

C. Choice of Law and Venue

This Agreement shall be governed by and interpreted in accordance with laws of the State of Texas, without giving effect to any conflict of laws provisions. Any litigation hereunder shall be brought in a court with jurisdiction in the State of Texas.

D. Notices

All notices and other communications required or permitted hereunder or necessary or convenient in connection herewith shall be in writing and shall be deemed to have been given when hand delivered, sent by facsimile with evidence of receipt, sent by reputable overnight courier with signature of recipient required or mailed by registered or certified mail, as follows (provided that notice of change of address shall be deemed given only when received):

If to Aqua Texas to:   Attention to:   Robert L. Laughman  
                                  Company:       Aqua Texas, Inc.  
                                  Address:       1106 Clayton Lane, Suite 400W  
                                  City/State/Zip: Austin, Texas 78723  
                                  Telephone:     512.990.4400  
                                  FAX:           512.990.4410

If to Developer to:    Attention to:   James L. Mabrey  
                                  Company:       Denton County 128 Development, LLC  
                                  Address:       5956 Sherry Lane, Suite 1000  
                                  City/State/Zip Dallas, Texas 75225  
                                  Telephone:  
                                  FAX:

or to such other names or addresses as Aqua Texas or Developer, as the case may be, shall designate by notice to each other person entitled to receive notices in the manner specified in this Section IX.D.

E. Counterparts

This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, shall bear the signatures of Developer and Aqua Texas. This Agreement may be

executed in two or more counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument.

F. Severability

If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, then (1) the same shall not affect other terms or provisions of this Agreement and (2) such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements of the Parties set forth herein.

G. No Waiver

No delay or failure by either Party to exercise any right, remedy or power herein shall impair such Party's right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving Party and then only to the extent expressly set forth in such writing.

H. Force Majeure

If a Party is rendered unable, wholly or in part, to carry out any of its obligations (other than a financial obligation) under this Agreement because of a force majeure event (the "Affected Party"), then the obligations of the Affected Party shall be suspended to the extent affected by, and for the duration of, such force majeure event. The Affected Party shall give notice to the other Party of the force majeure event as soon as practicable, and shall use all reasonable efforts to remedy the effects of such force majeure event. A "force majeure event" means natural disasters, strikes or other labor disturbances, riots, fires, wars, embargoes, delays of carriers, failure of power or of regular sources of supply, acts, injunctions or restraints of government, acts of the public enemy, insurrections, riots, epidemics, landslides, hurricanes, tornadoes, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary for operation of the System or any other cause preventing such performance, beyond the Affected Party's reasonable control. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Affected Party, and that the above requirement that any force majeure event shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to any demands relating thereto when such settlement is unfavorable to it in the judgment of the Affected Party.

I. Incorporation; Entire Agreement

This Agreement, including the main body of this Agreement and any and all addenda, exhibits or attachments, which have been agreed to and executed by an authorized representative of each Party, represent the entire agreement between the Parties with respect to the subject matter set forth herein,

and supercede all prior agreements with respect thereto. This Agreement may not be modified or supplemented except by a writing executed by both Parties.

J. Other Agreements

Aqua Texas retains the right to enter into similar agreements or any other agreements with any person or entity for similar development projects or for any other legitimate purpose.

K. Survival

All provisions of this Agreement that by their nature survive termination or expiration of this Agreement, shall so survive.

L. Further Assurances

After the Effective Date and upon the reasonable request of a Party hereto, the other Party shall execute and deliver such documents as are reasonably necessary to effectuate the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have duly executed this Agreement as of the date first above written.

AQUA TEXAS, INC.

DENTON COUNTY 128 DEVELOPMENT LLC

By: \_\_\_\_\_  
Robert L. Laughman, President

By: \_\_\_\_\_  
James L. Mabrey, Managing Member

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# DENTON COUNTY 128 DEVELOPMENT LLC.

5956 Sherry Lane • Suite 1000

Dallas, Texas • 75225

Tel. 214-987-4414 • Fax. 214-722-1578

Email: [james@mabreypartnersllc.com](mailto:james@mabreypartnersllc.com)

[www.preceptrealestatellc.com](http://www.preceptrealestatellc.com)

Thursday, January 23, 2014

Steve Dunnahoe  
Business Development  
Aqua Texas  
9450 Silver Creek  
Ft. Worth, Texas 76108

Re: Water and Sewer service to 128 acres ("Property")

Dear Steve:

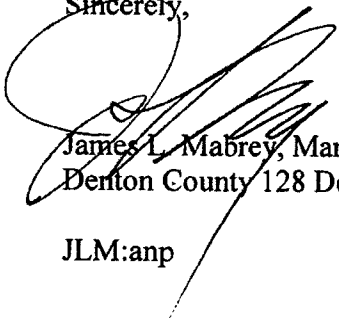
In November of last year you requested the following information in order to prepare an amended Water Supply Agreement and Waste Water Agreement:

1. Location/map of the development (Survey, aerial map or plat).
2. Capacity of water/wastewater needed /Number of homes projected and in what phases
3. Timeframe of requirements.
4. Level of service (domestic with fire protection)

The following should fulfill your request:

1. I have attached the survey of the Property.
2. We are projecting approximately 540 lots but could be as many as 600. The capacity required would be equal to the minimum requirements of the TCEQ. Phases of approximately 100 lots each.
3. Although the timeframe is subjective, anticipate the project will be completed over the next 3 to 6 years
4. Level of service: Domestic with fire protection

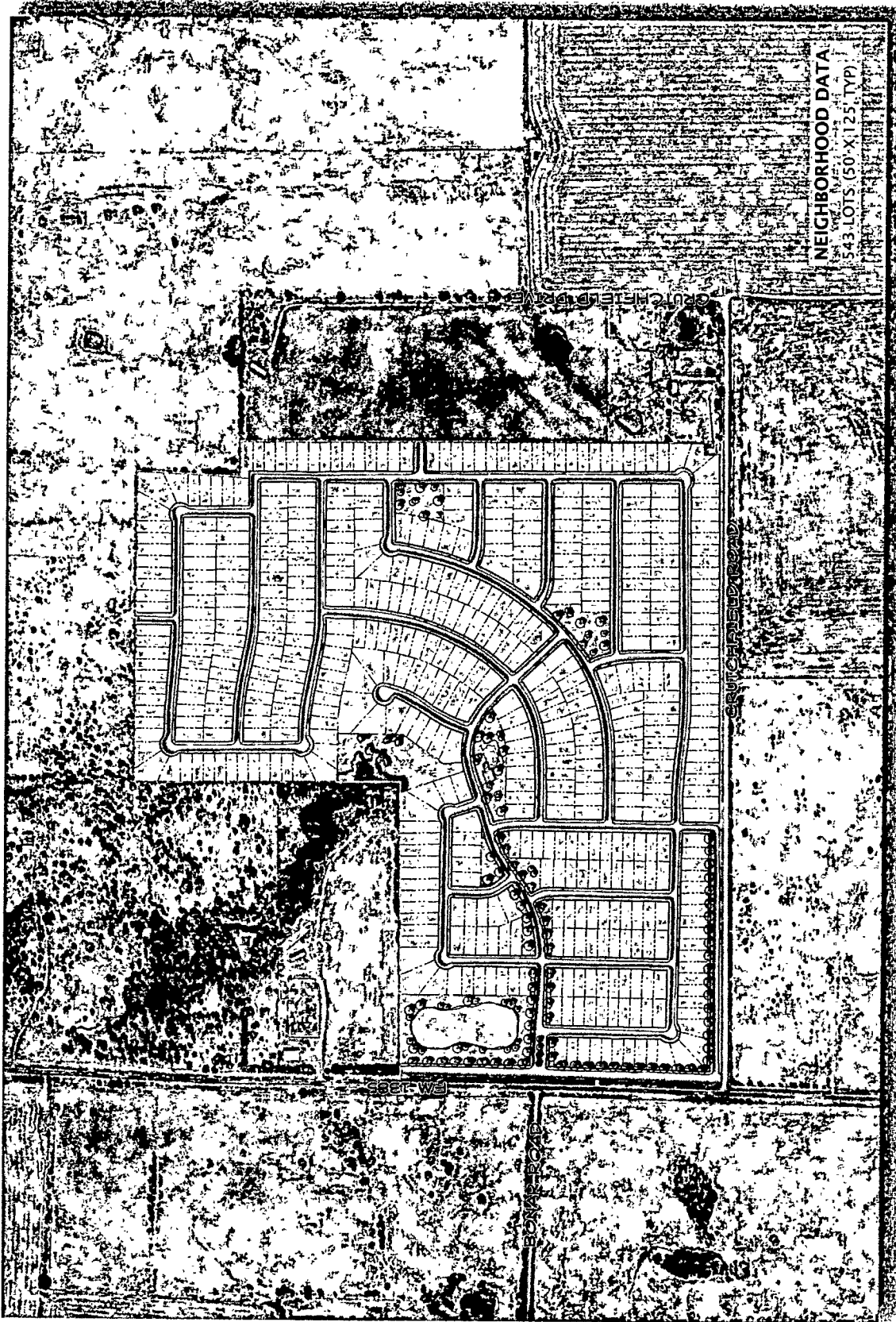
Sincerely,



James L. Mabrey, Managing Member  
Denton County 128 Development, LLC

JLM:anp





NEIGHBORHOOD DATA  
 166.1 AC. (50% X 125% TYP)  
 543 LOTS



0 100 200 300 400 500 600 700 800 900 1000  
 FEET

SEP 10 2013  
 10:04 AM



**PLAN FOR DEVELOPMENT**

**DENTON COUNTY 1277 ACRE TRACT**

LANDMARK SURVEYING AND DEVELOPMENT ARCHITECTURE  
 1200 QUINN ST. SUITE 300  
 FORT WORTH, TEXAS 76104

## RELEASE AND ABANDONMENT OF EASEMENT

Whereas, Aqua Utilities, Inc. d/b/a Aqua Texas, Inc., is a Texas corporation ("Releasor"), whose address is 1106 Clayton Lane, Suite 400W, Austin, Texas 78723; and

Whereas, Releasor is the successor by merger to H2M Water Systems, Inc.; and

Whereas, Releasor is the holder and/or beneficiary of that certain easements associated with the provision of retail water service in Denton County, Texas; and

Whereas, no water plant was ever constructed on the property covered by the easement, and the present owner of the property covered by the easement has requested that said easement be released;

Now, Therefore, for and in consideration of the sum of ten dollars (\$10.00) and other cash consideration paid to it by DR Horton and/or Affordable Housing Communities, LLC, whose address is \_\_\_\_\_ ("Release"), Releasor does hereby RELEASE AND ABANDON the all present right, title and interest of Releasor, if any, in and to the easements created pursuant to the following described instruments:

Water Plant, and Utility Easement recorded at Volume 2576, Page 303 of the Real Property Records of Denton County, Texas

Sanitary Control Easement recorded at Volume 2537, Page 773 of the Real Property Records of Denton County, Texas

For the same consideration recited hereinabove, Releasor does further hereby SELL, ASSIGN and DELIVER to Releasee, its successors and assigns, all present right, title and interest of Releasor, if any, in and to all roads, pipelines and related above and below ground equipment, if any, which may be located on, in or under any portion of the property associated with the easements released herein.

Releasee hereby covenants and agrees that Releasor, its successors and assigns, shall have no obligation with respect to the removal or abandonment in place of any pipelines lying within any portions of the property described in the Easement Agreement, and Releasee, on behalf of itself and its successors and assigns, agrees, at its sole cost, expense and liability, to properly abandon any pipelines and related above and below ground equipment in place or remove the same, to the extent same are located in, on or under the property referenced in the easements released herein.

Releasor and Releasee hereby covenant and agree as follows:

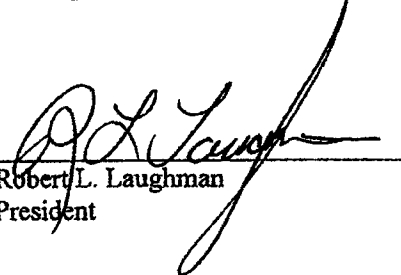
1. In the event either party hereto brings an action for the enforcement of any of the provisions of this Agreement, the prevailing party in such action shall have the right to recover from the other party, the prevailing party's reasonable attorneys' fees and costs.
2. Except as otherwise provided herein, this Agreement may be amended or modified by, and only by, a written instrument executed by the parties hereto.
3. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas (excluding its conflict of laws principles). The parties hereto hereby agree that venue for any action brought under this Agreement shall be in Harris County, Texas.
4. This Agreement supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof and constitutes the entire understanding of the parties with respect to such subject matter.
5. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and the covenants between Releasor and Releasee hereunder shall be deemed covenants running with the land.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument on the date(s) set forth in the acknowledgments hereof, but effective as of \_\_\_\_\_.

*(Signature pages follow.)*

**RELEASOR:**


AQUA TEXAS, INC.,  
a Texas corporation,

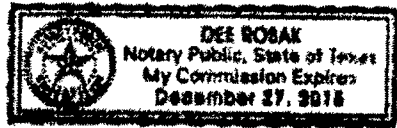
By:   
Robert L. Laughman  
President

DEN

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 29<sup>th</sup> day of October, 2013, by Robert Laughman, President of Aqua Utilities, Inc., on behalf of said corporation.

  
Notary Public in and for  
The State of Texas



**RELEASEE:**

DR Horton and/or Affordable Housing, LLC

By:

By: \_\_\_\_\_

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, on behalf of said entity.

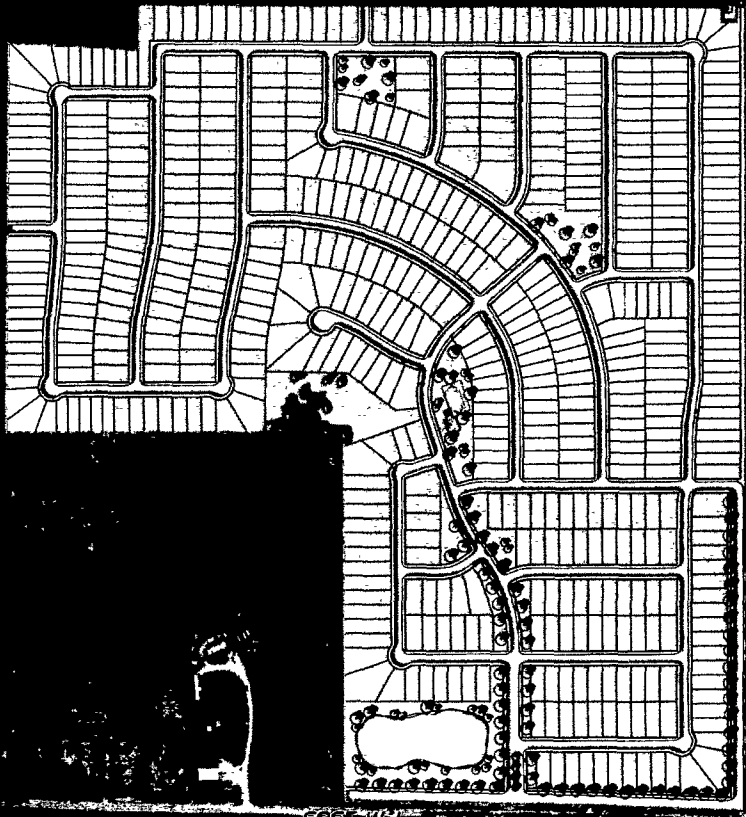
\_\_\_\_\_  
Notary Public in and for  
The State of \_\_\_\_\_

**BUILDING SETBACK SUMMARY**

FRONT YARD: 20'  
REAR YARD: 20'  
SIDE YARD: 5'  
SIDE YARD ADJACENT TO STREET: 15'

**NEIGHBORHOOD DATA**

40' X 125' TYP: 238 LOTS 40%  
50' X 125' TYP: 356 LOTS 60%  
TOTAL: 594 LOTS 100%



0 100 200 400 1"=200'

NOV 11 2014  
10:24 AM



**PLAN FOR DEVELOPMENT**

**DENTON COUNTY 127.7 ACRE TRACT**

INSPIRE RURAL PLANNING AND LAND USE PARTNERSHIP, LLC  
FOR REAL ESTATE DEVELOPMENT

127.7 ACRE TRACT  
DENTON COUNTY, TEXAS

Map 000730



# AQUA Texas.

Aqua Texas, Inc.  
1421 Wells Branch Parkway  
Suite 105  
Pflugerville, Texas 78661

T: 512-670-7625  
F: 512-989-9891  
www.aqua-texas.com

July 17, 2006

Ms. Kellie Crouch-Elliott  
Applications Review and Processing Team (MC-148)  
Water Quality Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**By Fax (512-239-0884) and  
Regular Mail**

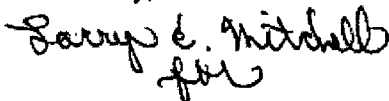
Re: Prosper Point WWTP  
Application to Renew Permit No. WQ0014234-001  
CN600789705; RN103184958  
Issued to Aqua Development, Inc.

Dear Ms. Crouch-Elliott:

As a follow-up to Mr. Bautista's letter of July 14, 2006, we are providing a signed copy of the lease agreement with the Developer. This should address your concerns identified in Item No. 4 of your list of application deficiencies.

We appreciate your cooperation and understanding while we worked with the developer to obtain a modified lease agreement to meet your requirements. With the information provided by Mr. Bautista in his July 14<sup>th</sup> letter and this lease agreement, we believe we have satisfactorily addressed all of the deficiencies in your fax dated June 6, 2006, and a follow up letter from Ms. Barbara D. Simmer dated July 3, 2006. However, if you have any questions or need additional documentation, please contact me by e-mail at [shblackhurst@aquaamerica.com](mailto:shblackhurst@aquaamerica.com), or at 512-844-6475. Since Mr. Bautista is out of the country until late July, I will be trying to respond to any permit concerns in his absence.

Sincerely,



Steve Blackhurst, P.E.  
Environmental Compliance Manager  
Aqua Texas, Inc.

SHB

cc: Mr. Abel Bautista, Wastewater Compliance Coordinator  
Mr. Mike O'Reilly, Environmental Compliance Manager, Aqua America  
Mr. Darryl Waldock, Area Manager, North Texas Region

**LEASE FOR WASTEWATER TREATMENT PLANT SITE**

Affordable Housing Communities LP, a Texas Limited Partnership, hereinafter referred to as "Lessor", does hereby lease, let and demise unto Aqua Development, Inc. (d/b/a Aqua Texas, Inc.), a Texas Corporation hereinafter referred to as "Lessee", that certain real property situated in the County of Collin, State of Texas, described as follows and by this reference made a part hereof, excepting therefrom all oil, gas, minerals, and other hydrocarbons upon and/or underlying said property together with the right to prospect for and drill for, mine and remove the same if found, subject to exceptions, reservations, easements, rights of way, and servitudes of record and encumbrances now existing and hereafter created by the Lessor. Land included in this lease is described as:

That certain Property identified as Exhibit "A" on page 1 of 4 on Attachment 1 which is attached hereto and incorporated herein. Aforesaid Exhibit "A" Property containing 0.706 Acres more or less.

This Lease is executed upon the following terms, covenants, conditions and provisions:

1. **Term.** The term of this Lease shall commence on July 14, 2006 and shall continue for a period of ten (10) years until July 13, 2016 or until the wastewater treatment plant is completely removed from service, whichever comes later, unless earlier terminated pursuant to the terms of this Lease.

2. **Use of Property.** The property herein leased is solely for the uses of constructing, operating, and maintaining a wastewater treatment plant to be used for the provision of wastewater treatment services for the benefit of the approximate 128.01 acres described in the Preliminary Plat that is attached hereto as Exhibit 1.

4. **Rent.** The rental rate for the demised premises shall be the sum of \$10.00 per year. Said sum shall be payable on the first day of August of each year of the term of this Lease.

5. **Taxes** Lessee shall pay all taxes and/or use fees levied by the any governmental or other assessment authority any subdivision thereof or other taxing authority levying or imposing taxes or assessments upon or with respect to the demised premises which are payable for any period during the term of this Lease.

6. **Indemnity.** Lessee agrees to release, indemnify and hold harmless Lessor and its officers, agents, and employees from and against all liability, claims, causes of action, cost and expense for any and all injuries, deaths, losses or damages and destruction from any cause whatsoever, arising out of the use or occupancy of or occurring on or about the leased premises by Lessee or the agents, employees and invitees of Lessee.

7. **Improvements and Mechanic's Liens.** Lessee shall not construct, alter or repair structures of any character upon said leased premises without first obtaining the written consent

of Lessor. However Lessor specifically herein approves the construction necessary for the construction of the wastewater treatment plant referenced in paragraph 2 above. Lessee shall pay for all materials joined or affixed to said leased premises, and pay in full all persons that perform labor upon said premises at Lessee's instance and request. Lessee shall not permit or suffer any mechanic's or materialmen's liens of any kind or nature to be enforced against said leased premises for any work done, or materials furnished thereon, at Lessee's instance or request. Lessee agrees to indemnify and hold Lessor harmless against any and all such liens. Lessor shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein. Lessee shall be liable to Lessor for all costs, damages and reasonable attorney's fees and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor.

8. **Compliance with Law.** Lessee shall comply with all laws and governmental orders and regulations pertaining to the leased premises or the occupancy and use of the leased premises by Lessee and the agents and employees of Lessee. Lessee shall not do or suffer to be done in or upon said leased premises any act or thing which is or may be a nuisance, and shall not use or permit others to use said leased premises, or any part thereof, for any unlawful or immoral purposes. Lessee shall further always comply with any requirements of the Texas Commission on Environmental Quality and the Environmental Protection Agency, as well as any other governmental agency with jurisdiction over the Property.

9. **Termination of the Lease.** This Lease shall terminate prior to the completion of the Term of this Lease if the Lessee fails to utilize the Property for purposes stated in paragraph 2 above. It shall be presumed that this paragraph shall be applicable if there is no wastewater services agreement in place between the Lessor and Lessee covering the provision of wastewater services to the property in Attachment A no later than December 31, 2006.

10. **Covenant Against Waste.** Lessee shall not do or permit any waste of or upon said property. Furthermore Lessee shall, upon the termination of the Lease, perform any remediation required to restore the Property to a condition equivalent to the condition at the time of the inception of this Lease.

11. **Repairs and Upkeep.** Lessee shall keep in good condition and repair all improvements placed on the Property.

12. **Default.** In the event of a breach of any other condition, term or covenant herein contained on the part of Lessee to be kept and performed, Lessor may, at Lessor's option, 15 days after written notice to Lessee to cure said breach, and the failure of Lessee to cure such default within such time period if such default can be cured within said time period, and if not, then the failure of Lessee to commence within said 15-day period to remedy said default until said default is fully cured:

(a) File a petition with the Texas Commission on Environmental Regulation seeking an order compelling Lessee to terminate the breach..

13. Subleasing and Assigning. The Lessee shall have the right to assign or sublease the premises, or portions thereof, only with the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. Any encumbrance, assignment, transfer or subletting without the prior written consent of the Lessor, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the Lessor, terminate this Lease. The consent of the Lessor to any such assignment of the Lessee's interest in this Lease or the subletting by Lessee on said premises shall not unreasonably be withheld. Lessor may assign its rights under this Lease at any time but will provide notice of its assignment to Lessee.

14. Quiet Surrender. Upon termination of this Lease, either wholly or in part, Lessee shall surrender and deliver unto Lessor the quiet and peaceable possession of said leased premises or that portion thereof to which the Lease shall be terminated.

15. Lessee's Bankruptcy. If Lessee is adjudicated a bankrupt, or shall make an assignment for the benefit of creditors, or file a voluntary petition under any law (having for its purpose the adjudication of Lessee a bankrupt, or the extension of time of payment, composition, adjustment, modification, settlement or satisfaction of the liabilities of Lessee), or receiver be appointed for the property of Lessee by reason of the insolvency of Lessee, notwithstanding anything to the contrary elsewhere in this Lease, Lessor shall have the immediate right to terminate this Lease and to take exclusive possession of the lease premises. The acceptance of rent or other payment for the use of the leased premises shall not constitute a waiver of Lessor's right to terminate this Lease as above set forth.

16. Notices. All notices, requests and other communications hereunder shall be in writing given by personal delivery, facsimile, overnight courier or by certified or registered mail, return receipt requested and shall be deemed to have been given four (4) days after deposit in the United States mail in a sealed envelope, postage prepaid, registered or certified mail, (or if by personal delivery, facsimile or overnight courier, at the time of delivery or receipt), and addressed as follows:

To Lessor: Affordable Housing Communities, LP  
PO Box 993  
Arlington, TX 76004  
Fax: 817/274-6581

To Lessee: Aqua Texas, Inc.  
1421 Wells Branch Pkwy  
Pflugerville, TX 78660  
Fax: 512/989-9891

With a copy to : Deputy General Counsel  
Aqua America, Inc.  
762 West Lancaster Avenue  
Bryn Mawr, Pennsylvania 19010



Any party hereto may, by written notice, change the address to which such demands, notices or statements to such party may be sent. All payments by Lessee under this Lease shall be made to the Lessor at the above address. Lessor may change the address at which such payment shall be made by written notice to Lessee.

17. **Time and Specific Performance.** Time and specific performance are of the essence of this Lease.

18. **Compliance with Applicable Laws, Regulations and Agreements.** Lessee shall use the leased premises in strict compliance with all laws, statutes, ordinances, rules, regulations and orders of federal, state or county governments, or of any agency thereof which may be applicable to the leased premises or the use or occupancy thereof.

19. **No Warranty.** Lessee expressly acknowledges that Lessor has made no warranty and no warranty shall be implied by reason of any term or provision of this Lease concerning the sufficiency or adequacy of the land for the use or uses intended by Lessee.

20. **Holding Over.** Any holding over after the expiration of the term of this Lease with the consent of the Lessor expressed or implied shall not extend the term of this Lease or renew the same, regardless of the period of holding over. Any such holding over shall constitute a tenancy from month to month upon each and every term, condition and covenant of this Lease insofar as the same may be applicable, excepting that the rental reserved shall be at the rate of one-half the yearly rental rate per acre per month.

24. **Attorney's Fees.** Should any litigation be commenced between the parties hereto concerning the property, this Lease, the rights and duties of either in relation thereto, the party prevailing in such litigation shall be entitled to such other relief as may be granted, to reasonable attorney's fees.

25. **Condemnation.** In the event the demised premises or any part thereof are taken or sold under threat of condemnation, the rental shall be reduced pro rata to the land and improvements for the taking thereof, and shall be payable to Lessor, and the Lessee does hereby sell, assign, transfer and set over any interest the Lessee might otherwise have in and to such compensation to the Lessor.

26. **Counterparts.** This Lease shall be valid when signed in counterparts with signatures exchanged via electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Lease on this 17 day of July, 2006.

HURT & LILLY, LLP

Fax:2143825657

Jul 14 2006 15:24

P.06

**LESSOR:**

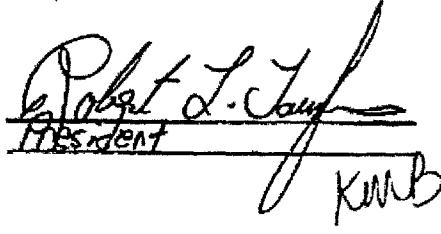
Affordable Housing Communities, LP

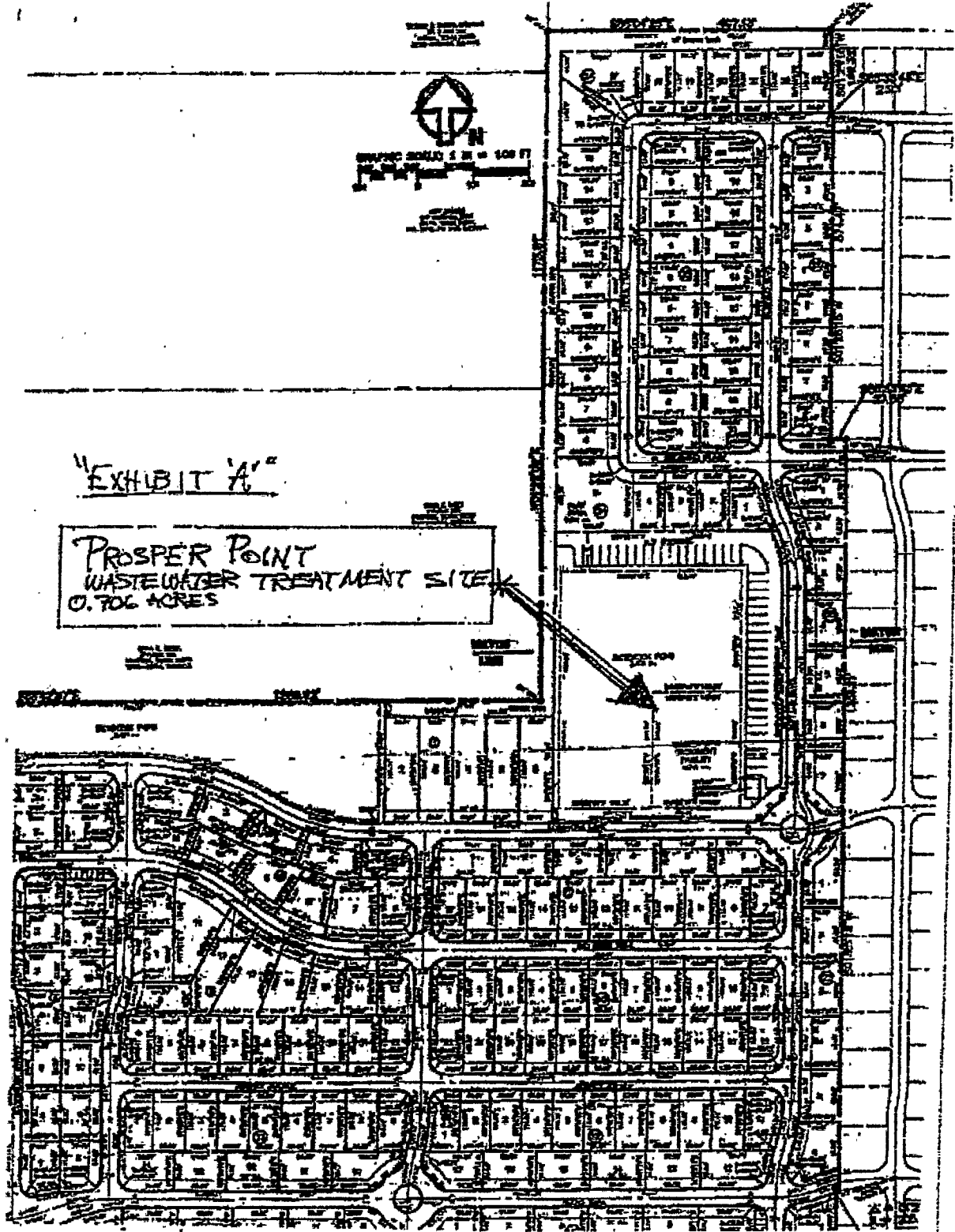


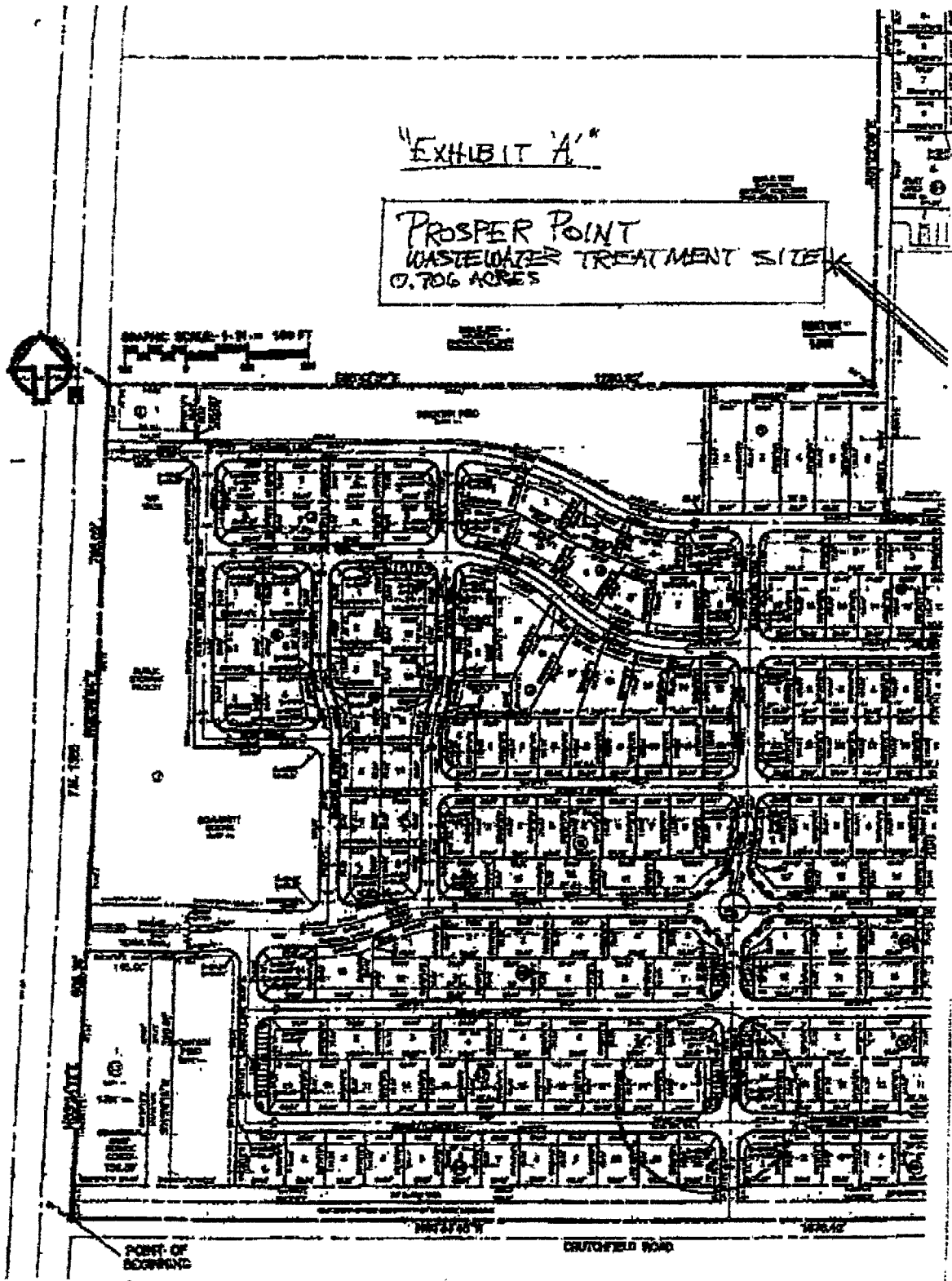
By: JERRY JORDAN, PRESIDENT  
It: DF MANAGING PARTNER  
BRAZOS INVESTORS, INC.

**LESSEE:**

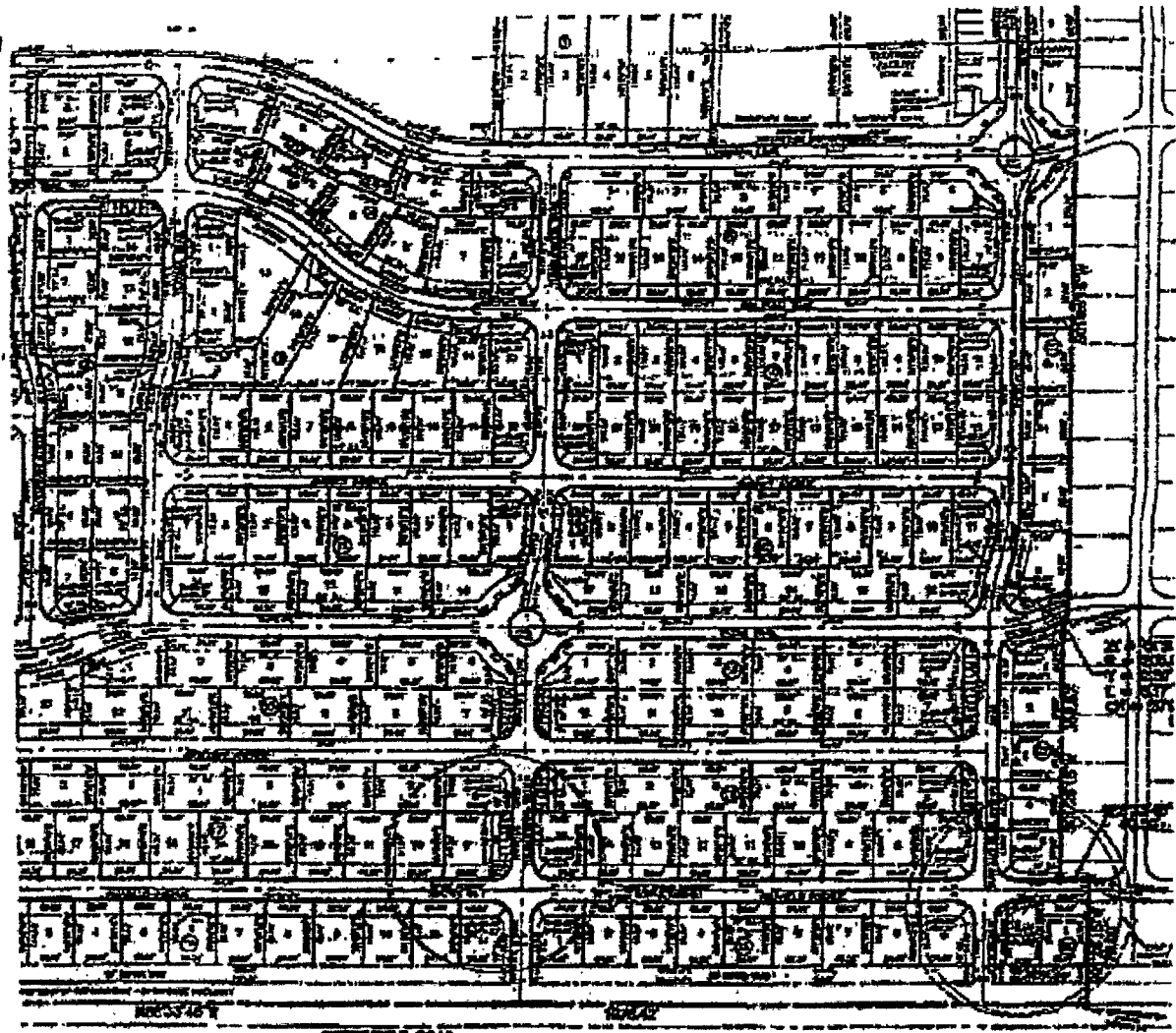
Aqua Texas, Inc.

By: Robert L. Kemp  
It: PRESIDENT  




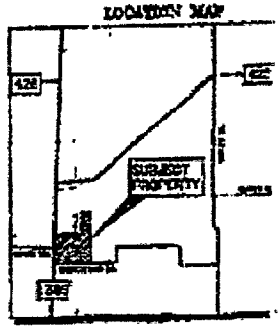
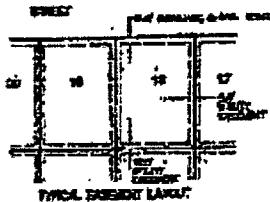




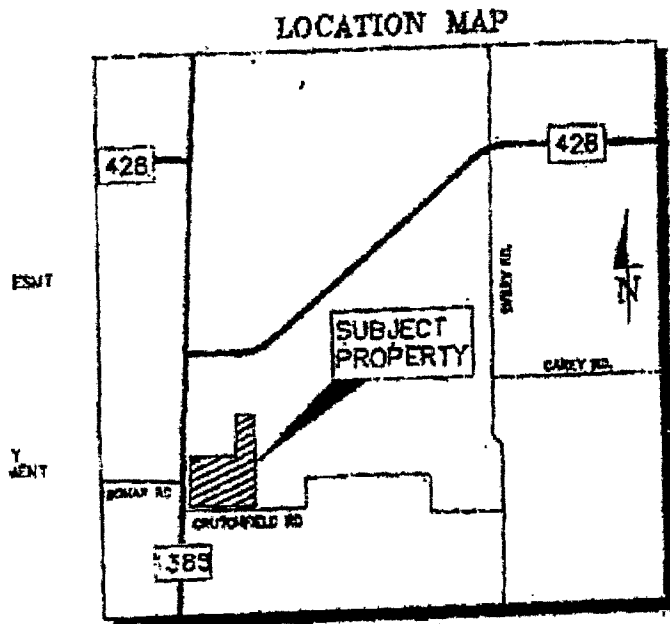


LOTS TO BE BUILT - 7,200 sq ft  
 TOTAL LOT AREA - 7,200 sq ft  
 SEARCH AREA - 7,200 sq ft  
 2-4% SLOPE - 7,200 sq ft  
 SLOPE PERCENT - 7,200 sq ft  
 WINDSHIELD TREATMENT PLANS - 0.700 sq ft  
 RESIDENTIAL USE - 7,200 sq ft  
 DENSITY - 504 UNITS/ACRE

1.5% SLOPE PERCENT  
 2.0% SLOPE PERCENT  
 2.5% SLOPE PERCENT  
 3.0% SLOPE PERCENT  
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 9.5% SLOPE PERCENT  
 10.0% SLOPE PERCENT



'06 pc



## PROSPER POINT

BEING 128.05 ACRES OF LAND IN THE  
T MCINTIRE SURVEY,  
ABSTRACT NUMBER 903  
DENTON COUNTY, TEXAS

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

JOB NO. 1536  
DESTINATION ADDRESS 92390884  
PSWD/SUBADDRESS  
DESTINATION ID  
ST. TIME 07/17 15:45  
USAGE T 01'54  
PGS. 11  
RESULT OK



1421 Wells Branch Parkway Ste. 105  
Pflugerville, TX 78660  
(512) 670-7625  
(512) 989-9891 Fax

**FAX COVER SHEET**

To: *Keelie Crouch - Elliott*

Fax # *239-0884*

From: *Kevin Brophy*

Phone # *990-4414*

Date: *7/17* Pages: *11* (including cover)

Re:



Aqua Texas, Inc.  
9450 Silver Creek Road  
Fort Worth, Texas 76108

817-367-3625  
817-367-1626 (fax)  
www.aqua-texas.com

April 6, 2004

Mr. Kurt Widener  
Jorco Group, Inc.  
101 E. Park Row  
Arlington, Texas 76004

RE: Prosper Point Development  
Water and Wastewater Plant Cost Estimates  
580 Lot Development

Dear Mr. Widener:

In response to your request, we have prepared the following preliminary cost estimates for the major plant facilities based upon 580 connections.

**Phase I - Water Facilities – Most Probable Cost Estimate up to 250 connections**

Wells #1 & #2 - Trinity Aquifer – 600 ft. deep – Quantity 2.....	\$ 168,000
Treatment – None – provided the water quality is within drinking water standards.....	\$ 0
Treated water ground storage – 64,000 gallon.....	\$40,000
Pump station with 6,500 gallon pressure tank.....	\$140,000
	Subtotal \$ 348,000
	15 % Engineering and Contingency \$ 52,200
	Phase I Total \$ 400,200

**Phase II - Water Facilities – Most Probable Cost Estimate – greater than 250 connections**

Wells #3 & #4 - Trinity Aquifer – 600 ft. deep – Quantity 2.....	\$ 180,000
Treatment – None – provided the water quality is within drinking water standards.....	\$ 0
Treated water ground storage – 64,000 gallon.....	\$40,000
Additional 6,500 gallon pressure tank and generator.....	\$68,000
	Subtotal \$ 288,000
	8 % Engineering and Contingency \$ 23,040
	Phase II Total \$ 311,040

Total Water \$711,240

Mr. Kurt Widener  
Re: Prosper Point – Cost Estimates  
April 5, 2004  
Page 2 of 2

**Wastewater Facilities – Most Probably Cost Estimate (Permit 10/15/3)**

<u>Phase I - 0.075 mgd wastewater treatment plant</u> .....	<u>\$ 500,000</u>
Subtotal	\$ 500,000
15 % Engineering and Contingency	<u>\$ 75,000</u>
Phase I Total	\$ 575,000
<u>Phase II - 0.150 mgd wastewater treatment plant expansion</u> .....	<u>\$ 300,000</u>
Subtotal	\$ 300,000
15 % Engineering and Contingency	<u>\$ 30,000</u>
Phase II Total	\$ 330,000
<u>Phase III - 0.225 mgd wastewater treatment plant expansion</u> .....	<u>\$ 100,000</u>
Subtotal	\$ 100,000
15 % Engineering and Contingency	<u>\$ 15,000</u>
Phase III Total	\$ 115,000
Wastewater Total	<b><u>\$1,020,000</u></b>

WATER AND WASTEWATER PLANT GRAND TOTAL - **\$1,731,240**

Our review of the water quality from the Trinity aquifer in this area indicates good water quality. If however, we encountered an issue with the water quality, the water cost estimates will need to be modified based on the severity of the issue which may involve the use of Reverse Osmosis treatment.

We look forward to reviewing these costs with you and trust that this will help facilitate a mutually agreeable cost sharing agreement.

If you should have any questions please contact me at 817-367-3625.

Yours Sincerely,

Aqua Texas, Inc.

Darryl Waldock  
Regional Manager

DW/fsh

Enc:

Cc: Mr. Bob Laughman, President, Texas, Aqua Texas, Inc.  
Mr. Dan Rimann, Regional Manager, Aqua Texas, Inc.

An Aqua America Company

Aqua 000806

# DENTON COUNTY 128 DEVELOPMENT LLC.

5956 Sherry Lane · Suite 1000  
Dallas, Texas · 75225  
Tel. 214-987-4414 · Fax. 214-722-1578  
Email: [james@mabreypartnersllc.com](mailto:james@mabreypartnersllc.com)  
[www.preceptrealestatellc.com](http://www.preceptrealestatellc.com)

Thursday, January 23, 2014

Steve Dunnahoe  
Business Development  
Aqua Texas  
9450 Silver Creek  
Ft. Worth, Texas 76108

Re: Water and Sewer service to 128 acres ("Property")

Dear Steve:

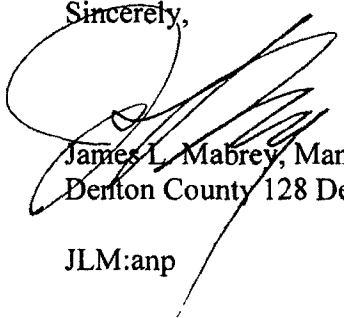
In November of last year you requested the following information in order to prepare an amended Water Supply Agreement and Waste Water Agreement:

1. Location/map of the development (Survey, aerial map or plat).
2. Capacity of water/wastewater needed /Number of homes projected and in what phases
3. Timeframe of requirements.
4. Level of service (domestic with fire protection)

The following should fulfill your request:

1. I have attached the survey of the Property.
2. We are projecting approximately 540 lots but could be as many as 600. The capacity required would be equal to the minimum requirements of the TCEQ. Phases of approximately 100 lots each.
3. Although the timeframe is subjective, anticipate the project will be completed over the next 3 to 6 years
4. Level of service: Domestic with fire protection

Sincerely,



James L. Mabrey, Managing Member  
Denton County 128 Development, LLC

JLM:anp



SOAH DOCKET NO. 582-08-1318  
TCEQ DOCKET NO. 2007-1956-UCR

APPLICATION OF MUSTANG § BEFORE THE STATE OFFICE  
SPECIAL UTILITY DISTRICT (SUD) TO §  
DECERTIFY A PORTION OF THE §  
SEWER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY §  
(CCN) NO. 20867 FROM § OF  
AQUASOURCE DEVELOPMENT, INC, §  
DBA AQUA TEXAS, INC., AND TO §  
AMEND SEWER CCN NO. 20930 IN §  
DENTON COUNTY TEXAS; §  
APPLICATION NO. 35709-C § ADMINISTRATIVE HEARINGS

AQUASOURCE DEVELOPMENT, INC. DBA AQUA TEXAS, INC.'S  
RESPONSE TO EXECUTIVE DIRECTOR'S  
REQUESTS FOR DISCLOSURE, INTERROGATORIES,  
REQUESTS FOR PRODUCTION AND REQUESTS  
FOR ADMISSION

COMES NOW, AquaSource Development, Inc. dba Aqua Texas, Inc., ("Aqua") and provides this its response to the Executive Director's Requests for Disclosure, Interrogatories, Requests for Production and Requests for Admission.

**REQUEST FOR DISCLOSURE**

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose the information or material described in Rule 194.2 (c), (e), (f), (h), and (i) as follows:

Response: See ATI's answers to Mustang SUD's requests for disclosure.

- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses;
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.
- (f) for any testifying expert:
  - a. the expert's name, address, and telephone number;
  - b. the subject matter on which the expert will testify;



- c. the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- d. if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
  - 1. all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
  - 2. the expert's current resume and bibliography;
- (h) any discoverable settlement agreements; and
- (i) any discoverable witness statements.

### **INTERROGATORIES**

**Interrogatory No. 1:** For each person you expect to call as a fact witness at the evidentiary hearing in this matter, please provide (a) the person's name, business address, and telephone number and (b) a brief description of the testimony you expect that person to provide.

**RESPONSE:** Experts listed in disclosures will also be fact witnesses.

**Interrogatory No. 2:** For each expert not listed in the response to the Requests for Disclosure who you have consulted and whose mental impressions and opinions have been reviewed by an expert you expect to testify in this matter, please provide (a) the consulting expert's name, business address, and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

**RESPONSE:** None

**Interrogatory No. 3:** Please discuss if and why you contend that Mustang SUD is unable to provide continuous and adequate sewer service to the requested area, including whether Mustang SUD has the financial, managerial, and/or technical capability to provide continuous and adequate service to the requested area.

**RESPONSE:** See ATI answer to Mustang Interrogatory No. 11.

**Interrogatory No. 4:** Please describe what would be the effect of granting Mustang SUD's application on you and on any other retail public utility already providing retail sewer service in the proximate area.

**RESPONSE:** See ATI answer to Mustang Interrogatory No. 16

**Interrogatory No. 5:** Please discuss if and why you contend that Mustang SUD's existing sewer systems are inadequate to serve the requested area.

**RESPONSE:** There is no sewer system

**Interrogatory No. 6:** Please describe any changes to the environmental integrity of the requested area that may occur if Mustang SUD's application is granted.

**RESPONSE:** Nominal, the same as when ATI serves the area.

**Interrogatory No. 7:** Please describe if and why there will be an improvement in service or lowering of costs to consumers in the requested area if Mustang SUD's application is granted.

**RESPONSE:** See ATI answer to Mustang Interrogatory No. 17

**Interrogatory No. 8:** Please describe the proximity of the requested area to any existing and/or proposed sewer facilities that you currently or will own and/or operate.

**RESPONSE:** The proposed Prosper Point Wastewater Treatment Plant is within the requested area. It is permitted by the TCEQ.

**Interrogatory No. 9:** Please list any and all other entities that are currently providing retail sewer service to the requested area, including a general description of the area served by each retail public utility and the type of service provided (residential, commercial, wholesale, etc.).

**RESPONSE:** None

**Interrogatory No. 10:** Please describe the adequacy of the sewer service provided by the retail public utilities listed in your answer to Interrogatory No. 9.

**RESPONSE:** N/A

### **REQUESTS FOR PRODUCTION**

**Request for Production No. 1:** For each consulting expert listed in the answer to Interrogatory No. 2, please provide copies of all documents, reports, models, and data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony.

**RESPONSE:** None

**Request for Production No. 2:** Please provide a current sewer distribution map for your sewer facilities in Denton County, Texas.

**RESPONSE:** Available at the Fort Worth offices of Aqua Texas. Only a small portion of Shale Creek is in western Denton County.

**Request for Production No. 3:** Please provide all other documents that support or otherwise relate to your answers to Interrogatory Nos. 3 through 10.

**RESPONSE:** Documents are voluminous and will be made available for inspection at ATI Fort Worth Offices upon appointment made through the Law Offices of Mark H. Zeppa, P.C.

**REQUESTS FOR ADMISSION**

**Request for Admission No. 1:** A portion of your sewer CCN is located within the requested area.

Admit:   x  

Deny:       

Reason why cannot be admitted or denied:

**Request for Admission No. 2:** You cannot provide retail sewer service within Mustang SUD's district boundaries without Mustang SUD's consent.

Admit:       

Deny:   x  

Reason why cannot be admitted or denied:

**Request for Admission No. 3:** A retail public utility's sewer transmission lines can cross through another retail public utility's sewer CCN with the intention to serve customers outside of the CCN holder's service area.

Admit:   x  

Deny:       

Reason why cannot be admitted or denied:

Respectfully submitted,

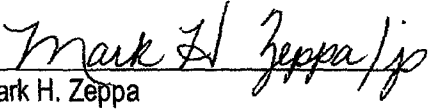
**LAW OFFICES OF MARK H. ZEPPA, PC**

BY: Mark H. Zeppa

Mark H. Zeppa  
State Bar No. 22260100  
4833 Spicewood Springs Road #202  
Austin, Texas 78759-8436  
(512) 346-4011, Fax (512) 346-6847

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of October, 2008, a true and correct copy of the foregoing document was delivered via first class mail, hand delivered, or electronic facsimile transmission to all persons on the attached mailing list.

  
Mark H. Zeppa

**SERVICE LIST**

<b>REPRESENTATIVE/ADDRESS</b>	<b>PARTIES</b>
Blas J. Coy, Jr Texas Commission on Environmental Quality PO Box 13087 MC 103 Austin TX 78711-3087 (512) 239-6363 (512) 239-6377 (fax) bcoy@tceq.state.tx.us	Texas Commission on Environmental Quality Public Interest Counsel
James W. Wilson Attorney Rapier & Wilson PC 103 W McDermott Allen TX 75013-2782 (972) 727-9904 (972) 727-4273 (fax) Wilson@rapierwilson.com	Mustang Special Utility District
Sal Levatino Attorney Law Office of Sal Levatino 1524 South IH-35, Suite 234 Austin TX 78704 (512) 474-4462 (512) 482-0051 (fax)	Celina West 637 Ltd.
Skip Newsom Attorney at Law The Law Offices of Skip Newsom 6806 Bee Caves Road Suite 1-A Austin TX 78746 (512) 477-4121 (512) 477-2860 (fax) (512) 431-9511 (cell)	Mustang Special Utility District
Stephanie Skogen Staff Attorney Texas Commission on Environmental Quality PO Box 13087 MC 173 Austin TX 78711-3087 (512) 239-0575 (512) 239-0606 (fax)	Texas Commission on Environmental Quality
Office of the Chief Clerk Texas Commission on Environmental Quality PO Box 13087 MC 105 Austin TX 78711-3087	

**Option to Purchase**

Affordable Housing Communities, LP (Grantor) hereby grants an option to purchase the wastewater plant site to Aquasource Development Company ("Grantee") for \$10,000 (ten dollars) and other good and valuable considerations, subject to execution of the final contracts between Grantor and Grantee for extension of wastewater utility service to Prosper Point and issuance of a wastewater discharge permit by the Texas Natural Resource Conservation Commission. The wastewater plant site will be located at a mutually acceptable location on the Grantor's property located in the T. Mcintire Survey Abstract No. 903, recorded at Vol. 2542, page 84, Deed records of Denton County, Texas or otherwise identified as



The sewer plant site shall be at least 350 feet, unless otherwise agreed to by Grantee in the final contracts. The wastewater plant site shall be accompanied by non exclusive and perpetual easements for ingress and egress sufficient to construct and maintain all weather roads to the nearest public road or improved private road which Grantee will have unrestricted right of use and passage. The wastewater plant site shall be accompanied by perpetual public utility easements sufficient to construct, install and maintain necessary wastewater facilities, including without limitation, pipelines, valves, meters, lift stations and manholes, sufficient to provide wastewater service throughout Grantor's property in conformance with rules and regulations of the Texas Natural Resource Conservation Commission. Each wastewater plant site must be located to conform with 30 T.A.C. §§309.10-309.13 and Grantor shall create and record such easements as may be necessary to establish the buffer zones required by these regulations. However Grantor reserves the right to park vehicles inside any buffer zones so long as such use does not adversely impact or hamper Grantee's operation of the wastewater plant, its lines and appurtenances.

This option shall have an initial term of two (2) years from the date of execution below and shall automatically renew for successive six (6) month terms thereafter unless notice of the cancellation is given by either party sixty (60) days before expiration of any term.

Grantor: Affordable Housing Communities, LP

By: BRANZOS INVESTORS LP  
GENERAL PARTNER

Date: 9-22-00

Grantee: Aquasource Development Company

By:

Date: 9-22-00

**From:** Matt Van Hattem [mailto:[matt@collierconsulting.com](mailto:matt@collierconsulting.com)]  
**Sent:** Wednesday, June 11, 2014 4:32 PM  
**To:** James Mabrey ([James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com))  
**Cc:** Hughbert Collier; 'Aaron Collier'  
**Subject:** Prosper Point Development Proposed Water Wells

James,

Here is a breakdown of the driller's cost for just the construction of the water wells at full build out assuming Aqua Texas requires 1.2 gallons per minute per connection (594 lots= 712.8 gpm). The production and costs are estimates.

Woodbine Well: \$155,000 @ 100 gpm  
Paluxy Well: \$656,000 @ 150 gpm  
Trinity Well: \$1,255,000 @ 400 gpm

Options if only Two well sites are available:

- 2 Trinity Wells at a combined gpm of 800 (\$2,500,000)
- 1 Trinity and 2 Paluxy Wells at a combined gpm of 700 (\$2,500,000)

Options if Three well sites are available:

- 3 Woodbine and 3 Paluxy with a combined gpm of 750 (\$2,433,000)
- 3 Woodbine and 1 Trinity with a combined gpm of 700 (\$1,665,000)

Due to the local competition for water, low production, additional lots and infrastructure needed (electrical power, waterlines, fencing, road, etc...) for the additional well, and poorer water quality in the Woodbine, we recommend drilling the two Trinity wells at two well site locations (one location would be at the water plant and one remote location). This option gives the most production with the use of only 2 lots, the wells have less local competition for the water, and the storage tanks at the plant can be approximately a tenth smaller in size with a higher recharge rate from the Trinity wells. Please let me know if you have any questions.

Thank you,

**Matt Van Hattem**  
Senior Engineering Tech

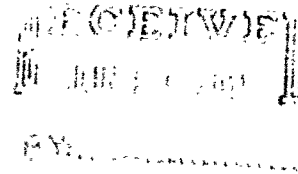


**Collier Consulting, Inc.**  
P.O. Box 1137  
590 E. South Loop  
Stephenville, TX 76401  
Office: (254) 968-8741  
Fax: (254) 968-8725  
Cell: (254) 592-1883

*Aqua Development Company*  
*Dan Timmann, VP*

P.O. Drawer 305 • Lewisville, TX 75067

(972) 219-1228 • Fax: (972) 221-9896



REGIONAL WATER DISTRICT

June 7, 2011

Office of the Chief Clerk  
Texas Commission on Environmental Quality  
MC105  
P. O. Box 13087  
Austin, TX 78711-3087

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**7010 1870 0003 5202 5311**

**RE: TPDES Permit No. 14234-001**  
**Aqua Development, Inc.**

To Whom It May Concern:

Upper Trinity Regional Water District has received notice that Aqua Development (formerly AquaSource Development Company) is seeking renewal of the above referenced wastewater discharge permit for its proposed treatment plant near Farm-to-Market Road 1385 and Crutchfield Road in northeast Denton County. On December 2, 2002, Upper Trinity entered into a Wastewater Service Agreement with AquaSource (the "Agreement") as part of a settlement of Upper Trinity's opposition to its original discharge permit.

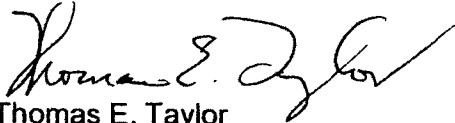
The Agreement contains certain provisions relating to Aqua Development's future participation in Upper Trinity's regional wastewater treatment system. Specifically, Section 2.1 of the Agreement requires Aqua Development "to request TCEQ insert provisions consistent with this Agreement into the requested discharge permit and any renewals thereof", including the requirement that Aqua Development connect to Upper Trinity's regional wastewater treatment system. In addition, this Section requires that the Agreement be attached to the above referenced discharge permit. At the time of the Agreement, regional wastewater service was not available.

However, as of the date of this letter, regional wastewater service is now available to Aqua Development. Upper Trinity has extended a major wastewater trunk main from its Doe Branch lift station to generally the intersection of Good Hope and Parvin Roads. Said trunk main is relatively close to Aqua Development's site of its future wastewater treatment plant.



We request that the Commission require Aqua Development to connect to the regional system, in lieu of constructing a community plant. In the alternative, TCEQ could insert the required provisions, as outlined above, as part of Aqua Development's wastewater discharge permit renewal. For your reference and use, I am enclosing a copy of the Agreement. Should you have any questions or need further assistance, please contact me or Jason Pierce, Manager of Contract Services, at 972-219-1228. Thank you for your assistance in this matter.

Sincerely,

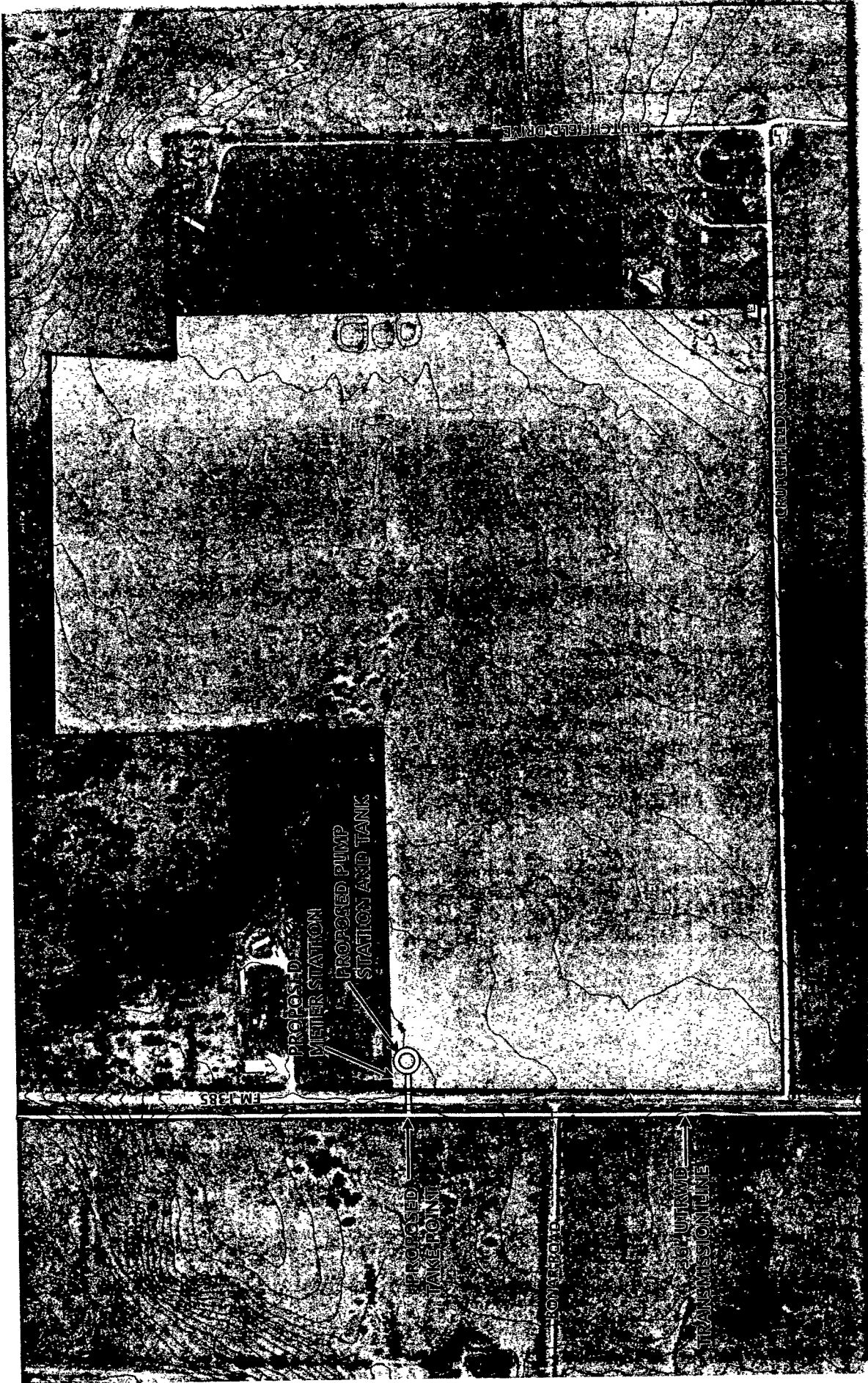


Thomas E. Taylor  
Executive Director

TET/JP/nka

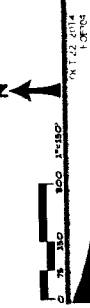
Encl: Wastewater Service Agreement dated December 2, 2002

c: Aqua Development Company  
Rod Hogan, Interim City Manager, City of Celina  
Lance Vanzant, Board Representative, City of Celina  
Chris Boyd, General Manager, Mustang Special Utility District  
John F. Boyle, General Counsel, UTRWD  
Larry N. Patterson, Director of Operations & Water Resources  
Jason L. Pierce, Manager of Contract Services



**CELINA ETJ 127.7 ACRE TRACT**  
 21. GREENSBORO TOWNSHIP, AND JURISDICTION, AND HEREIN TO BE  
 FOR REAL ESTATE DEVELOPMENT

**WHOLESALE WATER SERVICE SCHEMATIC**



DATE: 08/01/2014  
 TIME: 10:00 AM  
 PROJECT: CELINA ETJ 127.7 ACRE TRACT

DATE: 08/01/2014  
 TIME: 10:00 AM  
 PROJECT: CELINA ETJ 127.7 ACRE TRACT

**JBI**  
 CONSULTANTS



June 4, 2015

Mr. Stephen Dunnahoe, Business Development Coordinator  
Aqua Texas, Inc.  
9450 Silver Creek Road  
Fort Worth, TX 76108

**RE: Request for Service  
128-Acre Residential Development in Denton County**

Dear Mr. Dunnahoe:

We have received Aqua Texas, Inc. ("Aqua") request dated March 26 for wholesale water and wastewater service for a 128-acre development on FM 1385 in northeast Denton County. In addition, we have received the information you provided on May 14. Upper Trinity has both water and wastewater facilities nearby that appear adequate to provide the requested service. If authorized by the Board of Directors, the requested service would be provided under Upper Trinity's established policy ("I.O.U. Policy") for service to investor owned utilities (copy enclosed), subject to mutually agreed contracts.

Below is our initial assessment of Aqua's request for service, and several important factors to consider:

#### **Water Service**

According to the I.O.U. Policy, Aqua will be responsible for paying all costs to design and construct, according to Upper Trinity standards and specifications, the following facilities to receive wholesale water service from Upper Trinity:

- A point of delivery at a mutually agreed location, including an appropriate meter and SCADA equipment;
- Delivery pipeline from Upper Trinity's transmission pipeline along FM 1385 to said delivery point; and,
- Delivery facilities (storage tank with air gap, pump station, etc.) to enable normal service from Upper Trinity.

#### **Wastewater Service**

For wastewater service, Aqua will be responsible for paying all costs to design and construct, according to Upper Trinity standards and specifications, the following facilities:

- A point of entry at a mutually agreed location, including an appropriate meter and SCADA equipment; and,
- Trunk main from the agreed entry point to Upper Trinity's Doe Branch Trunk Main near the intersection of Parvin and Good Hope Roads.

### **Other Costs**

Aqua will be responsible for paying certain other costs:

- A pro rata share of the Doe Branch Trunk Main, which extends generally south from Parvin and Good Hope Roads to the Doe Branch Water Reclamation Plant now under construction (approximately \$1.20 per gallon of capacity).
- A pro rata share of treatment capacity at the Doe Branch Plant (approximately \$16.00 per gallon of capacity).

Cost of capacity and the amount of capacity needed will be confirmed prior to contract negotiations.

### **Easements**

Aqua will need to provide Upper Trinity, at no cost, the necessary easements or fee-owned property for the point of delivery, point of entry, the delivery pipeline and the associated trunk main, as described above, with rights of ingress and egress acceptable to Upper Trinity.

### **Subscription**

Based on standard policies, Aqua would need to subscribe to enough capacity (based on instantaneous peak demand) to meet its expected requirements over a three-year period, following availability of service. For wastewater service, Aqua would be expected to subscribe to enough capacity (average daily flow) for its full build-out needs.

### **Rates**

For water service, Upper Trinity has a two-part rate structure - - a Demand and Volume Charge. The Demand Charge is a fixed annual amount based on subscribed capacity, to be paid on a monthly basis. A one-time Equity Fee of \$200,000 per mgd applies to the subscribed capacity. The Volume Charge, on the other hand, applies to the amount of water actually taken each month. For wastewater service, there is a similar volume charge to cover variable treatment cost, plus a charge for any fixed cost. According to the I.O.U. Policy, Upper Trinity may also include a reasonable rate of return on investments made by Upper Trinity, somewhat comparable to the private sector. Enclosed are the current water and wastewater rates that apply for service to our existing customers. Rates for Aqua would be similar, except for investment related fixed cost.

### **Policy Provisions**

It is Upper Trinity's understanding that the proposed development is located in unincorporated Denton County, wholly within the service area of Aqua, and within the land-use plan of the City of Celina, a Member of Upper Trinity. Notwithstanding the other provisions of the I.O.U. Policy, Aqua will need to provide evidence to Upper Trinity that Celina does not object to its request for wholesale service. Said evidence will need to be provided prior to any contracts being finalized.

If Aqua is interested in moving forward with further consideration of Upper Trinity providing wholesale water and wastewater service to the proposed 128-acre development, generally as described above, please indicate your interest by signing below and returning a copy to me. After

Upper Trinity Regional Water District  
Ltr – Stephen Dunnahoe, Aqua Texas, Inc.  
Request for Service  
June 4, 2015

receiving the signed letter, I will request the Board of Directors to consider Aqua's request, and to seek preliminary approval to move forward with plans to serve Aqua. For Aqua's request to be considered at the July 2<sup>nd</sup> Board meeting, please return the signed letter to me by June 24.

If the Board of Directors is in favor of the plan of service, or if they stipulate any special conditions, the next step would be to develop separate proposed contracts for water and wastewater service. It is not expected that the Board would authorize single service, only water and wastewater service, collectively.

Please feel free to contact me or Jason Pierce at 972-219-1228, if you have any questions or need additional information. I look forward to working with you to provide service to the proposed development.

Sincerely,

  
Thomas E. Taylor  
Executive Director

TET/JP/bhs

Yes, we are Interested:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

- Enclosures: 1. Service to Investor Owned Utility Policy  
2. Current Water and Wastewater Rates for FY'15

- Cc: Todd Madison, President, UTRWD  
Mike Foreman, City Manager, City of Celina  
Lance Vanzant, President Elect, UTRWD  
Jean Campbell, Board Representative, UTRWD  
Larry Patterson, Deputy Executive Director, UTRWD  
Bill Greenleaf, Director of Business Services, UTRWD  
Jason Pierce, Manager of Watershed & Contract Services, UTRWD



# RESOLUTION

## RESOLUTION # 2014 - 18

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF UPPER TRINITY REGIONAL WATER DISTRICT ESTABLISHING WHOLESALE WATER RATES FOR PARTICIPATING MEMBERS AND CUSTOMERS OF THE REGIONAL TREATED WATER SYSTEM.**

**WHEREAS**, the District, pursuant to participation contracts, provides wholesale treated water service to Members and Customers in the Regional Treated Water System; and,

**WHEREAS**, the District may enter into contracts for wholesale service with other Members and Customers in the future; and,

**WHEREAS**, the District desires that Participating Members and Customers maintain usage that will protect the Regional Treated Water System and generate an efficient load factor year around; and

**WHEREAS**, in times of drought, usage of water may increase at both the retail and wholesale levels, potentially exceeding budgeted amounts for a "normal year". Under such conditions, it may be necessary for the District to purchase extra amounts of raw water on a marginal cost basis at prices that exceed budget levels; and,

**WHEREAS**, under guidelines promoted by State regulatory agencies, the District and its wholesale customers are expected to have rate structures that encourage conservation of water; and,

**WHEREAS**, it is recommended that the District continue implementation of a "Drought Adjustment Clause" during summers months for above normal usage, to enable the District to recover the actual costs of raw water purchased at marginal cost that exceeds budgeted amounts – and further, to encourage conservation of water during such high usage periods; and,

**WHEREAS**, each participant in the Regional Treated Water System is responsible for their pro-rata share of costs; and,

**WHEREAS**, as used in this resolution, the term "Water Year" refers to the annual period from June 1 to May 30 of each year; and,

**WHEREAS**, the District's staff has evaluated the FY 2014-15 Budget to determine current estimates of costs for FY 2014-15; and,

**WHEREAS**, the District bills for Demand based on subscribed (contracted) capacity, or actual experience or need, whichever is greater, in accordance with provisions of water contracts, which Demand may increase and be billed in increments of 100,000 gallons. Initial subscriptions for new participants typically are based on estimated Demands over a three to five-year period. Pending future changes by the Board, Equity Fees will be charged and will be due at the time of any requested increase in Demand or new subscription. Increases in Demand requested during the Water Year will require retroactive payment of Demand charges for the amount being requested back to the beginning of the Water Year; and,

**WHEREAS**, in accordance with Guidelines adopted by the Board and to provide for revenue requirements, an overall combined increase of 2.75% is recommended for water rates (based on the system average load factor); and,

**WHEREAS**, the Executive Director recommends adoption of the following rates for wholesale water services provided by the Regional Treated Water System; and,

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER TRINITY REGIONAL WATER DISTRICT:**

**SECTION 1.** That the Board of Directors does hereby adopt the following rates for wholesale water service provided to Members and Customers in the Regional Treated Water System:

Member Volume Charge: \$0.94 per 1,000 gallons of water delivered and metered.

Customer Volume Charge: \$1.01 per 1,000 gallons of water delivered and metered.

Demand Charge: \$388,110 per year, per million gallons per day (mgd) of contracted Demand, pro-rated on a monthly basis (based on actual experienced or needed Demand or subscribed capacity, whichever is greater).

Equity Fee: \$200,000 per million gallons per day (mgd) of new contracted capacity.

**SECTION 2.** That, except as otherwise provided, the Board of Directors does hereby adopt the following optional wholesale water rate (flat rate) for Member entities contracted for 0.50 mgd or less of capacity, or for others requiring temporary water for construction or other purposes.

Volume Charge: \$3.98 per 1,000 gallons of water delivered and metered.

**SECTION 3.** That, the Board of Directors does hereby authorize a "Drought Adjustment Clause" to be applicable during the months of June through September for any year when the Regional Treated Water System is experiencing above normal sales volumes (which volumes are defined as being at least 5% above the budgeted volume).

**SECTION 4.** That, the Executive Director is hereby directed to monitor actual volume of treated water sales vs. budgeted sales and actual cost of raw water purchased vs. budgeted costs; and the Executive Director shall administer the Drought Adjustment Clause to recover unbudgeted raw water cost for the designated months when actual sales volumes (for both the current month and for the year to date) are above budgeted normal volumes, per the following table.

For administration of the Drought Adjustment Clause, the "trigger levels" for volume and for costs are as follows:

**For Budget Year FY 2014 – 2015**  
(Budgeted Volume x 1.05)

<u>Month</u>	<u>YTD Gallons (1,000s)</u>	<u>Monthly Gallons (1,000s)</u>	<u>Budgeted Raw Water Costs/1,000 gal</u>
June	5,649,294	1,082,345	\$0.4482
July	6,929,215	1,279,922	\$0.4686
August	8,232,890	1,303,676	\$0.4573
September	9,232,109	999,219	\$0.4706

The cost adjustment amount shall not exceed \$0.04 per 1,000 gallons in any month.

**SECTION 5.** That for every Water Year, each participant in the Regional Treated Water System shall take or pay for a minimum daily volume of water from the System equal to eighteen percent (18%) of the highest peak Demand actually taken from the System over the preceding five (5) Water Years.

**SECTION 6.** That the Executive Director is hereby authorized to establish temporary minimum take or pay flow requirements for specific pipelines if the Executive Director determines such to be reasonable and necessary to maintain water quality requirements or to comply with State or Federal Water Quality Standards.

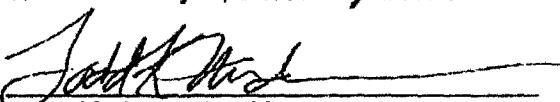
**SECTION 7.** That the rates set forth in Sections 1 through 4 shall become effective October 1, 2014, and shall remain in effect through September 30, 2015, or until revised by the Board of Directors.

**SECTION 8.** That such other fees and charges which the Board of Directors may establish from time to time for participation in the Regional Treated Water System, for participation in other projects, and for the cost of Administration and Planning shall apply, in addition to the rates, fees and charges established in this Resolution.

**SECTION 9.** That this Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED THIS 4TH DAY OF SEPTEMBER 2014.**

Recommended:   
Thomas E. Taylor, Executive Director

Executed:   
Todd Madison, President

Attest:   
Gary Calmes, Secretary





REGIONAL WATER DISTRICT

# RESOLUTION

## RESOLUTION # 2014 -20

**A RESOLUTION OF THE BOARD OF DIRECTORS OF UPPER TRINITY REGIONAL WATER DISTRICT ESTABLISHING RATES FOR WHOLESALE WASTEWATER TREATMENT SERVICES PROVIDED BY THE DISTRICT FOR PARTICIPATING MEMBERS AND CUSTOMERS OF THE RIVERBEND PLANT (AND DOE BRANCH FACILITIES) IN THE NORTHEAST REGIONAL WATER RECLAMATION SYSTEM.**

**WHEREAS**, the District, pursuant to participation contracts, provides wholesale wastewater treatment service to Members and Customers in the Riverbend Water Reclamation Plant; and,

**WHEREAS**, each participant in the Riverbend Water Reclamation Plant is responsible for their pro-rata share of costs; and,

**WHEREAS**, the participants in the proposed Doe Branch Water Reclamation Plant will be charged a flat rate to have flows temporarily forwarded to the Riverbend Plant for processing until the Doe Branch Plant construction has been completed and is fully operational; and,

**WHEREAS**, the District's staff has evaluated the FY 2014-15 Budget to determine current estimates of costs for FY 2014-15; and,

**WHEREAS**, the Executive Director recommends the adoption of rates for wholesale wastewater treatment services provided by the Riverbend Water Reclamation Plant (and Doe Branch Facilities).

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER TRINITY REGIONAL WATER DISTRICT:**

**SECTION 1.** That the Board of Directors does hereby adopt the following rates for wholesale wastewater treatment services provided to Members and Customers in the Riverbend Water Reclamation Plant:

Treatment Rate (Member):	\$1.80 per 1,000 gallons
Treatment Rate (Customer):	\$1.93 per 1,000 gallons
Flat Rate for Temporary use of Riverbend Facilities (Doe Branch Service)	\$3.65 per 1,000 gallons
Fixed O&M Costs:	\$327,500 per year per million gallons per day (mgd) of contracted capacity in the Plant billed on a monthly basis.
Lincoln Park Facilities Capital Charge:	\$ 10,190
Denton County FWSD #8A Facilities Capital Charge:	\$ 88,660
Providence Village Facilities Capital Charge:	\$163,750

Interim Riverbend Financing Charges (Interest Only) – UV Improvements – per year billed on a monthly basis

Denton County FWSD #8A	\$1,445
Providence Village	\$1,150
Denton County FWSD #10	\$1,745
Denton County FWSD #11A	\$1,445
Lincoln Park	\$ 190
Mustang SUD	\$ 400

**SECTION 2.** That should the Biochemical Oxygen Demand (BOD) or Total Suspended Solids (TSS) delivered by any participant to the Plant exceed 250 mg/l, the following surcharges will apply in addition to the rates set forth in Section 1:

Biochemical Oxygen Demand Surcharge:	\$ 0.007 x (BOD-250) per 1,000 gallons
Total Suspended Solids Surcharge:	\$ 0.005 x (TSS-250) per 1,000 gallons

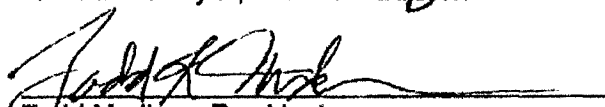
**SECTION 3.** That the rates and charges set forth in Sections 1 and 2 shall become effective October 1, 2014, and shall remain in effect until September 30, 2015, or until revised by the Board of Directors.

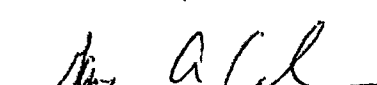
**SECTION 4.** That such other fees and charges which the Board of Directors may establish from time to time for participation in the Riverbend Water Reclamation Plant, for participation in other projects, and for the cost of Administration and Planning shall apply in addition to the rates and charges established in this Resolution.

**SECTION 5.** That this Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED THIS 4TH DAY OF SEPTEMBER 2014.**

Recommended:   
Thomas E. Taylor, Executive Director

Executed:   
Todd Madison, President

Attest:   
Gary Calmes, Secretary



REGIONAL WATER DISTRICT

## POLICY STATEMENT

### **Extension of Regional Water and Wastewater Services to Investor Owned Utilities**

#### **Background**

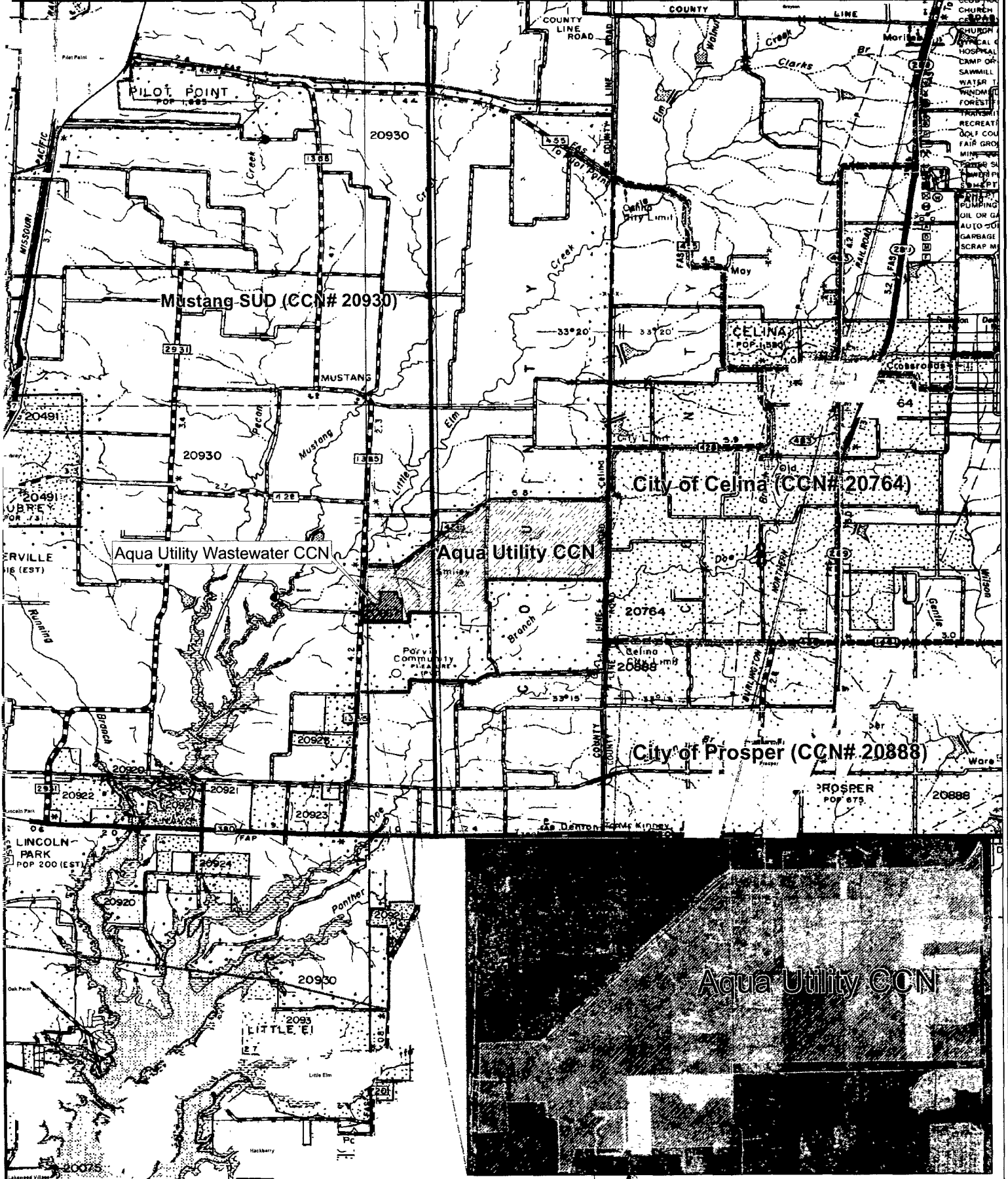
The Board of Directors previously adopted policies concerning the extension of service to Members and Customers; however, those policies did not address special considerations that may be involved in responding to requests from investor owned utilities (IOU) for wholesale water or wastewater service. The District's general policies related to extension of service as supplemented by the following provisions shall apply to IOUs. In case of a conflict between the District's general extension policies and this policy concerning IOUs, this policy shall prevail.

#### **Policy Provisions**

1. The District will extend service to a bona fide public utility that holds an uncontested CCN within the District's service area, subject to satisfactory showing as to financial stability and creditability, commitment to meet all District standards and requirements, and written confirmation that no conflict exists with existing Members and Customers of the District.
2. If the service area (CCN) of the IOU is within the boundary, ETJ or adopted bona fide land-use plan of a Member municipality, or overlaps the CCN of an existing Member or Customer, the IOU must provide evidence that said Member or Customer does not object to the IOU's request for service from the District.
3. Agreement to provide service outside of the District's service area to an IOU shall be subject to the District being requested to do so by the regional utility generally responsible for water supply or wastewater planning for that area. Further, the Board must first make a finding that such service is in the best interest of the District and its Members.
4. The IOU shall be responsible for capital costs of any extension necessary to provide the requested service, which costs shall be paid upfront.
5. In addition to the cost of the extension, an IOU shall provide up-front cost participation in the District's existing or expanded central treatment and related facilities. Such cost participation, at the District's discretion, may be in the form of a pro rata capital contribution or a capital cost recovery fee based on the capacity being requested or subscribed.
6. In providing service to IOUs, District will avoid using the 10% allowance under IRS rules for tax exempt financing; thus reserving the allowance as needed for existing Customers. If necessary, District may issue taxable bonds to cover the cost of the facilities for the IOUs.
7. A special rate and fee structure will be developed for IOUs, individually or as a class. The rate structure shall include a reasonable rate of return on investments made by the District.
8. Any contract for service to an IOU shall define the geographic area authorized to be served. Any expansion of the authorized area shall require prior District approval.

Adopted: March 7, 2002  
Revised and Updated: February 3, 2005

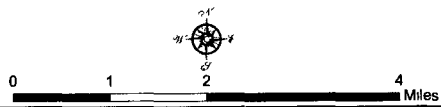
# Mustang SUD Wastewater CCN Application



**COLLIER CONSULTING, INC.**  
 254-866-8721 (TX) Fax  
 www.collierconsulting.com  
 254-866-8728 (TX) Fax

**Legend**

- Proposed Mustang Wastewater CCN
- Aqua Utility CCN
- Aqua Utility Wastewater CCN



**NOTES**

- 1) B.L.I.E symbols are systems plotted from the assets and lengths collected by CCNCC staff. Smaller B.L.I.E symbols represent other assets in the system.
- 2) Larger B.L.I.E symbols are usually WWS in the system.
- 3) Highways and cultural data are from ERI 2004.
- 4) Projection: CCN: WGS 84.
- 5) Map Date: November 30, 2007.

Prepared by: **AQUA**  
 Aqua\_000829

# HURT & LILLY, LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

10670 NORTH CENTRAL EXPRESSWAY SUITE 605

DALLAS, TEXAS 75231-2108

TELEPHONE (214) 382-6656 | TELECOPY (214) 382-6657

## TELECOPY TRANSMITTAL

**DATE:** July 14, 2006

**DELIVER TO:** Jerry Jordan

**FAX #:** 817-274-6581

**FROM:** Jeffrey W. Hurt

**RE:** Wastewater Lease



**Total number of pages including this page:** 10

Attached is the Lease for Wastewater Treatment Plant Site for your signature. Upon signing, please FedEx the signed agreement for delivery Monday morning to:

*TO* →

Kevin M. Brophy  
 Director, Corporate Development  
 Aqua Texas, Inc.  
 1421 Wells Branch Pkwy, Ste 105  
 Pflugerville, TX 78660  
 512-990-4414

***If you did not receive all of the pages or there are other problems, please call (214) 382-5656***

Pursuant to IRS Circular 230, any advice in this electronic mail is not intended or written to be used, and may not be used by the recipient for the purposes of avoiding any federal, state, or local tax penalty which may be asserted. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL, and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, please do not read, use or disseminate this communication. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, destroy any hard copies you may have created and notify me immediately.

**LEASE FOR WASTEWATER TREATMENT PLANT SITE**

Affordable Housing Communities LP, a Texas Limited Partnership, hereinafter referred to as "Lessor", does hereby lease, let and demise unto Aqua Development, Inc. (d/b/a Aqua Texas, Inc.), a Texas Corporation hereinafter referred to as "Lessee", that certain real property situated in the County of Collin, State of Texas, described as follows and by this reference made a part hereof, excepting therefrom all oil, gas, minerals, and other hydrocarbons upon and/or underlying said property together with the right to prospect for and drill for, mine and remove the same if found, subject to exceptions, reservations, easements, rights of way, and servitudes of record and encumbrances now existing and hereafter created by the Lessor. Land included in this lease is described as:

That certain Property identified as Exhibit "A" on page 1 of 4 on Attachment 1 which is attached hereto and incorporated herein. Aforesaid Exhibit "A" Property containing 0.706 Acres more or less.

This Lease is executed upon the following terms, covenants, conditions and provisions:

1. **Term.** The term of this Lease shall commence on July 14, 2006 and shall continue for a period of ten (10) years until July 13, 2016 or until the wastewater treatment plant is completely removed from service, whichever comes later, unless earlier terminated pursuant to the terms of this Lease.

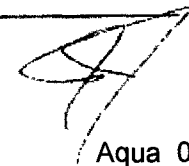
2. **Use of Property.** The property herein leased is solely for the uses of constructing, operating, and maintaining a wastewater treatment plant to be used for the provision of wastewater treatment services for the benefit of the approximate 128.01 acres described in the Preliminary Plat that is attached hereto as Exhibit 1.

4. **Rent.** The rental rate for the demised premises shall be the sum of \$10.00 per year. Said sum shall be payable on the first day of August of each year of the term of this Lease.

5. **Taxes** Lessee shall pay all taxes and/or use fees levied by the any governmental or other assessment authority any subdivision thereof or other taxing authority levying or imposing taxes or assessments upon or with respect to the demised premises which are payable for any period during the term of this Lease.

6. **Indemnity.** Lessee agrees to release, indemnify and hold harmless Lessor and its officers, agents, and employees from and against all liability, claims, causes of action, cost and expense for any and all injuries, deaths, losses or damages and destruction from any cause whatsoever, arising out of the use or occupancy of or occurring on or about the leased premises by Lessee or the agents, employees and invitees of Lessee.

7. **Improvements and Mechanic's Liens.** Lessee shall not construct, alter or repair structures of any character upon said leased premises without first obtaining the written consent



of Lessor. However Lessor specifically herein approves the construction necessary for the construction of the wastewater treatment plant referenced in paragraph 2 above. Lessee shall pay for all materials joined or affixed to said leased premises, and pay in full all persons that perform labor upon said premises at Lessee's instance and request. Lessee shall not permit or suffer any mechanic's or materialmen's liens of any kind or nature to be enforced against said leased premises for any work done, or materials furnished thereon, at Lessee's instance or request. Lessee agrees to indemnify and hold Lessor harmless against any and all such liens. Lessor shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein. Lessee shall be liable to Lessor for all costs, damages and reasonable attorney's fees and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor.

8. **Compliance with Law.** Lessee shall comply with all laws and governmental orders and regulations pertaining to the leased premises or the occupancy and use of the leased premises by Lessee and the agents and employees of Lessee. Lessee shall not do or suffer to be done in or upon said leased premises any act or thing which is or may be a nuisance, and shall not use or permit others to use said leased premises, or any part thereof, for any unlawful or immoral purposes. Lessee shall further always comply with any requirements of the Texas Commission on Environmental Quality and the Environmental Protection Agency, as well as any other governmental agency with jurisdiction over the Property.

9. **Termination of the Lease.** This Lease shall terminate prior to the completion of the Term of this Lease if the Lessee fails to utilize the Property for purposes stated in paragraph 2 above. It shall be presumed that this paragraph shall be applicable if there is no wastewater services agreement in place between the Lessor and Lessee covering the provision of wastewater services to the property in Attachment A no later than December 31, 2006.

10. **Covenant Against Waste.** Lessee shall not do or permit any waste of or upon said property. Furthermore Lessee shall, upon the termination of the Lease, perform any remediation required to restore the Property to a condition equivalent to the condition at the time of the inception of this Lease.

11. **Repairs and Upkeep.** Lessee shall keep in good condition and repair all improvements placed on the Property.

12. **Default.** In the event of a breach of any other condition, term or covenant herein contained on the part of Lessee to be kept and performed, Lessor may, at Lessor's option, 15 days after written notice to Lessee to cure said breach, and the failure of Lessee to cure such default within such time period if such default can be cured within said time period, and if not, then the failure of Lessee to commence within said 15-day period to remedy said default until said default is fully cured:

(a) File a petition with the Texas Commission on Environmental Regulation seeking an order compelling Lessee to terminate the breach..

13. **Subleasing and Assigning.** The Lessee shall have the right to assign or sublease the premises, or portions thereof, only with the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. Any encumbrance, assignment, transfer or subletting without the prior written consent of the Lessor, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of the Lessor, terminate this Lease. The consent of the Lessor to any such assignment of the Lessee's interest in this Lease or the subletting by Lessee on said premises shall not unreasonably be withheld. Lessor may assign its rights under this Lease at any time but will provide notice of its assignment to Lessee.

14. **Quiet Surrender.** Upon termination of this Lease, either wholly or in part, Lessee shall surrender and deliver unto Lessor the quiet and peaceable possession of said leased premises or that portion thereof to which the Lease shall be terminated.

15. **Lessee's Bankruptcy.** If Lessee is adjudicated a bankrupt, or shall make an assignment for the benefit of creditors, or file a voluntary petition under any law (having for its purpose the adjudication of Lessee a bankrupt, or the extension of time of payment, composition, adjustment, modification, settlement or satisfaction of the liabilities of Lessee), or receiver be appointed for the property of Lessee by reason of the insolvency of Lessee, notwithstanding anything to the contrary elsewhere in this Lease, Lessor shall have the immediate right to terminate this Lease and to take exclusive possession of the lease premises. The acceptance of rent or other payment for the use of the leased premises shall not constitute a waiver of Lessor's right to terminate this Lease as above set forth.

16. **Notices.** All notices, requests and other communications hereunder shall be in writing given by personal delivery, facsimile, overnight courier or by certified or registered mail, return receipt requested and shall be deemed to have been given four (4) days after deposit in the United States mail in a sealed envelope, postage prepaid, registered or certified mail, (or if by personal delivery, facsimile or overnight courier, at the time of delivery or receipt), and addressed as follows:

To Lessor:                                   Affordable Housing Communities, LP  
  PO Box 993  
  Arlington, TX 76004  
  Fax: 817/274-6581

To Lessee:                                     Aqua Texas, Inc.  
  1421 Wells Branch Pkwy  
  Pflugerville, TX 78660  
  Fax: 512/989-9891

With a copy to:                               Deputy General Counsel  
  Aqua America, Inc.  
  762 West Lancaster Avenue  
  Bryn Mawr, Pennsylvania 19010



Any party hereto may, by written notice, change the address to which such demands, notices or statements to such party may be sent. All payments by Lessee under this Lease shall be made to the Lessor at the above address. Lessor may change the address at which such payment shall be made by written notice to Lessee.

17. **Time and Specific Performance.** Time and specific performance are of the essence of this Lease.

18. **Compliance with Applicable Laws, Regulations and Agreements.** Lessee shall use the leased premises in strict compliance with all laws, statutes, ordinances, rules, regulations and orders of federal, state or county governments, or of any agency thereof which may be applicable to the leased premises or the use or occupancy thereof.

19. **No Warranty.** Lessee expressly acknowledges that Lessor has made no warranty and no warranty shall be implied by reason of any term or provision of this Lease concerning the sufficiency or adequacy of the land for the use or uses intended by Lessee.

20. **Holding Over.** Any holding over after the expiration of the term of this Lease with the consent of the Lessor expressed or implied shall not extend the term of this Lease or renew the same, regardless of the period of holding over. Any such holding over shall constitute a tenancy from month to month upon each and every term, condition and covenant of this Lease insofar as the same may be applicable, excepting that the rental reserved shall be at the rate of one-half the yearly rental rate per acre per month.

24. **Attorney's Fees.** Should any litigation be commenced between the parties hereto concerning the property, this Lease, the rights and duties of either in relation thereto, the party prevailing in such litigation shall be entitled to such other relief as may be granted, to reasonable attorney's fees.

25. **Condemnation.** In the event the demised premises or any part thereof are taken or sold under threat of condemnation, the rental shall be reduced pro rata to the land and improvements for the taking thereof, and shall be payable to Lessor, and the Lessee does hereby sell, assign, transfer and set over any interest the Lessee might otherwise have in and to such compensation to the Lessor.

26. **Counterparts.** This Lease shall be valid when signed in counterparts with signatures exchanged via electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Lease on this 17 day of

July, 2006.

**LESSOR:**

Affordable Housing Communities, LP

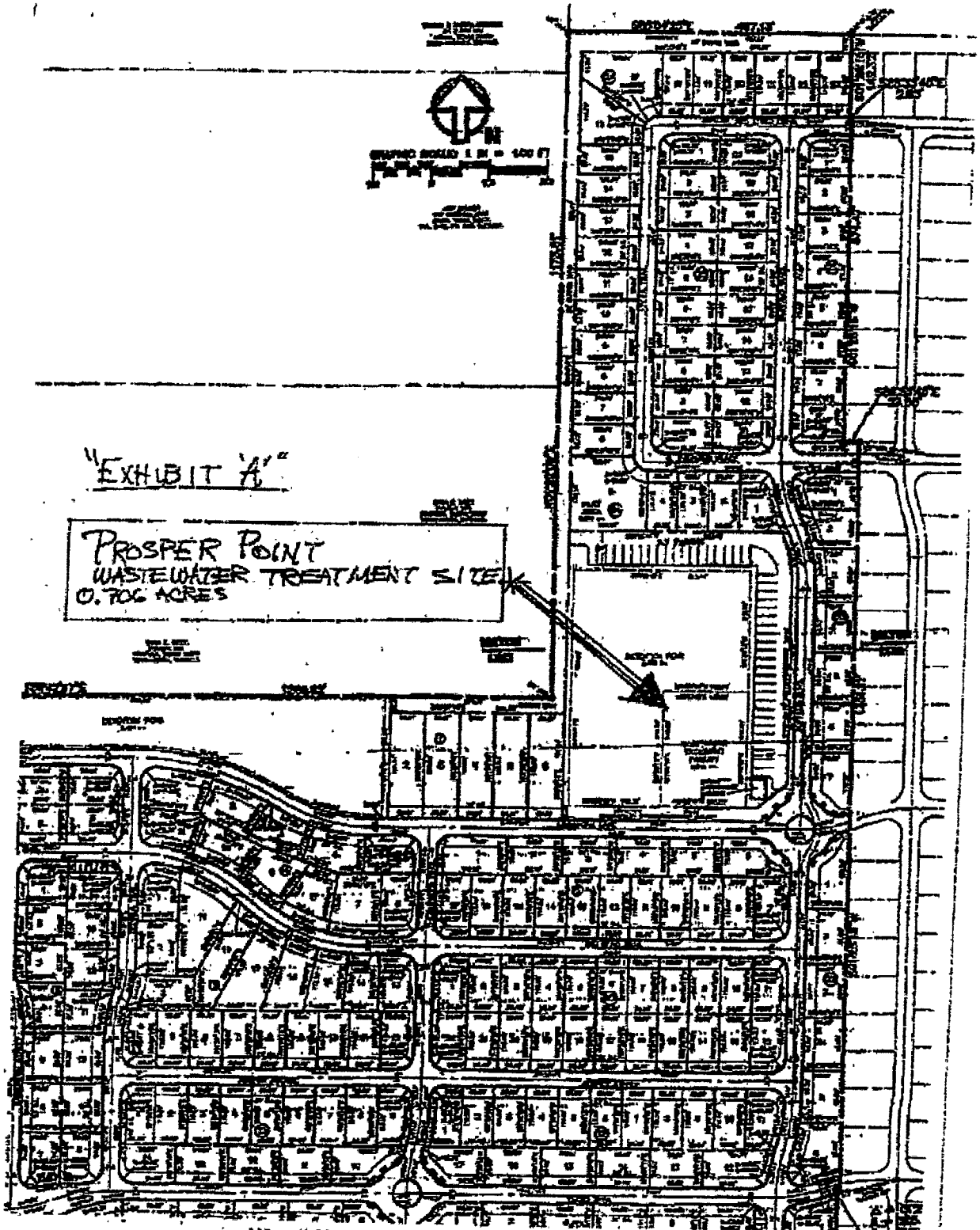


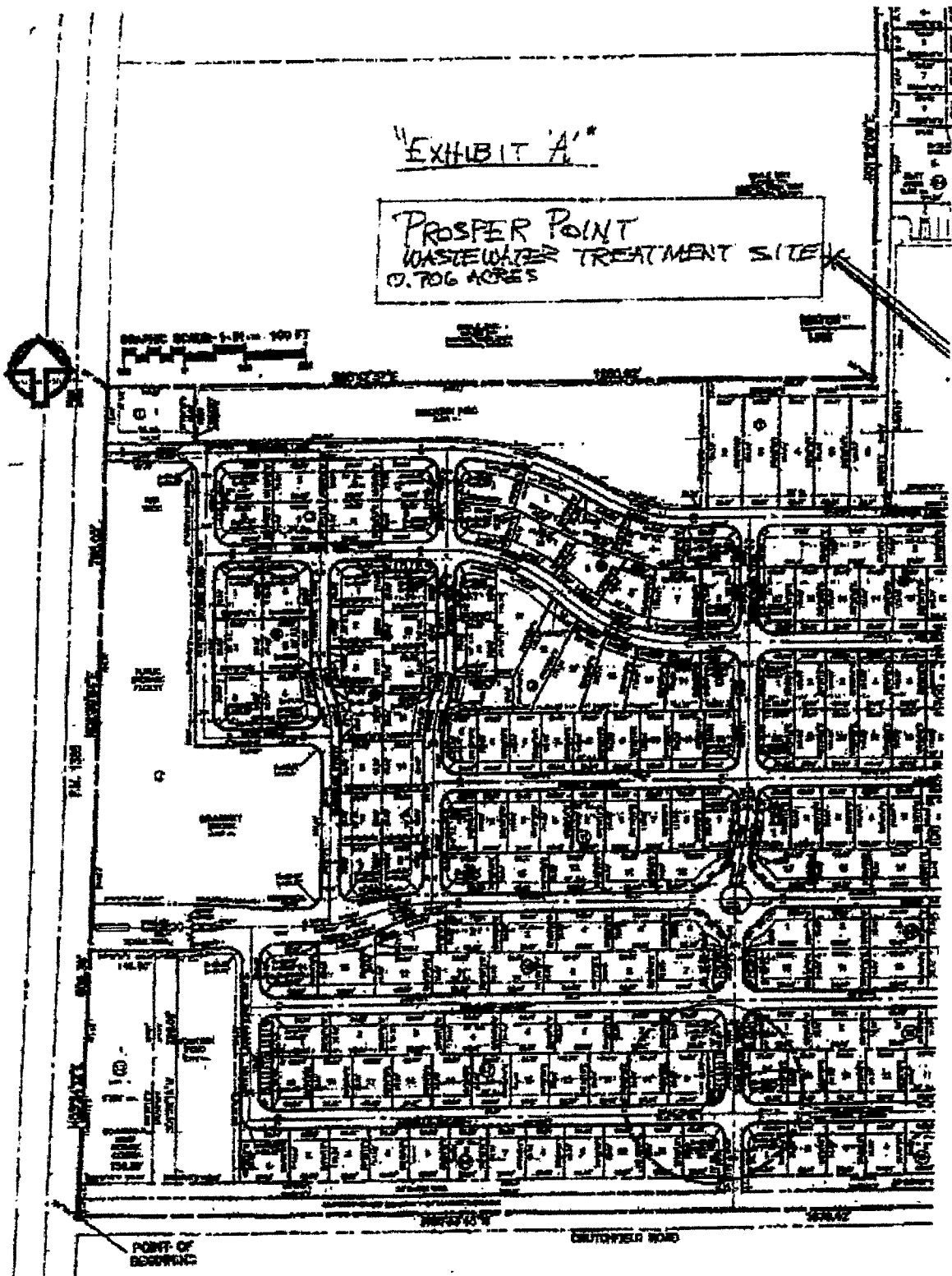
By: JERRY JORDAN, PRESIDENT  
Its: OF MANAGING PARTNER  
BRACOS INVESTORS, INC.

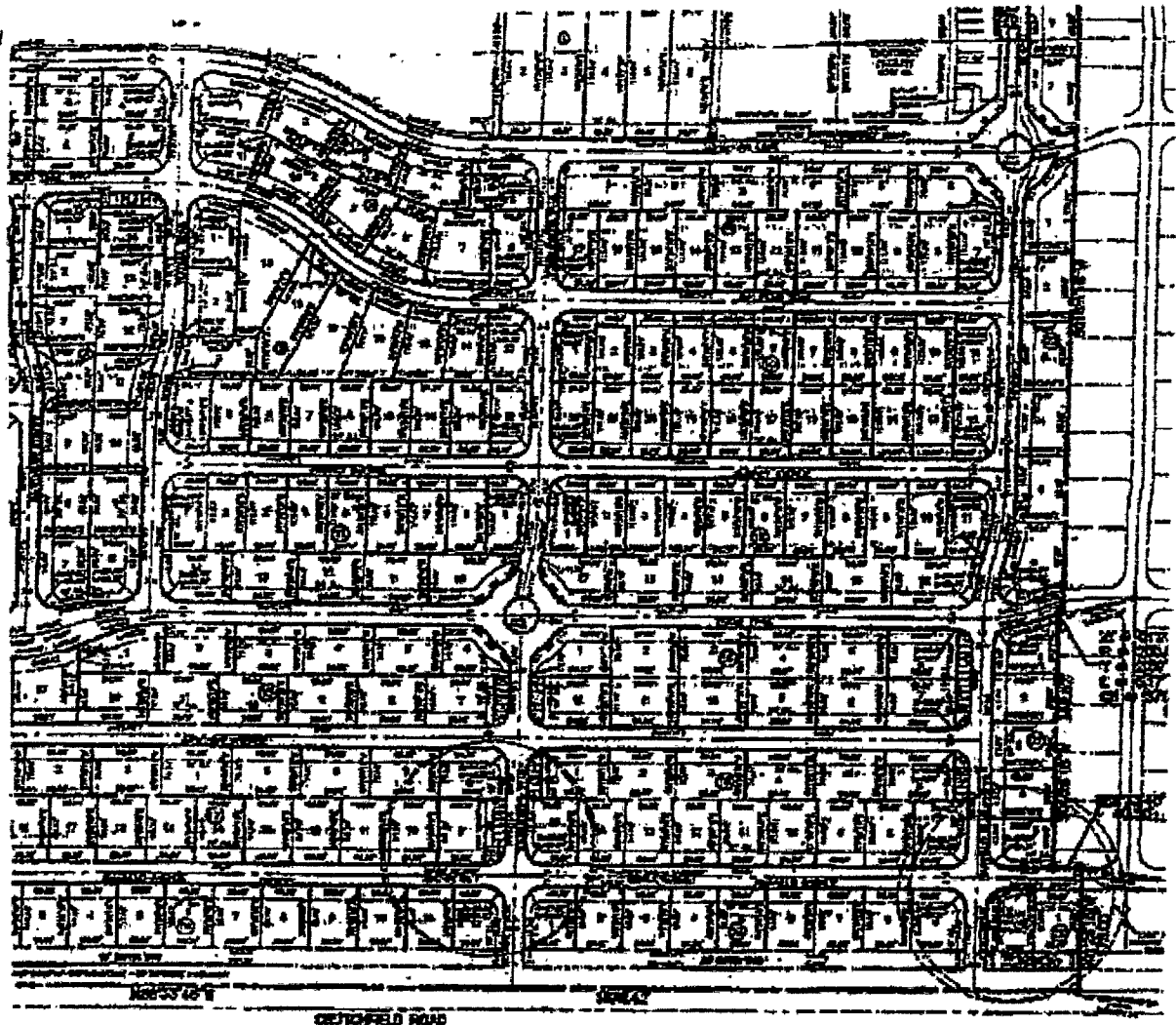
**LESSEE:**

Aqua Texas, Inc.

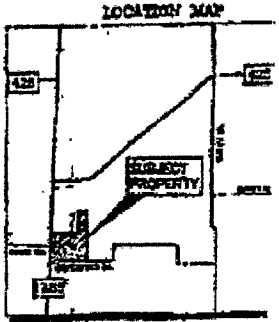
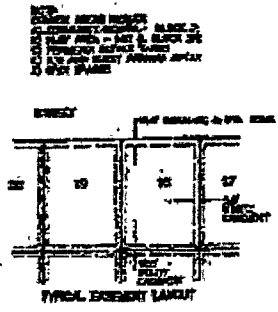
By: \_\_\_\_\_  
It: \_\_\_\_\_



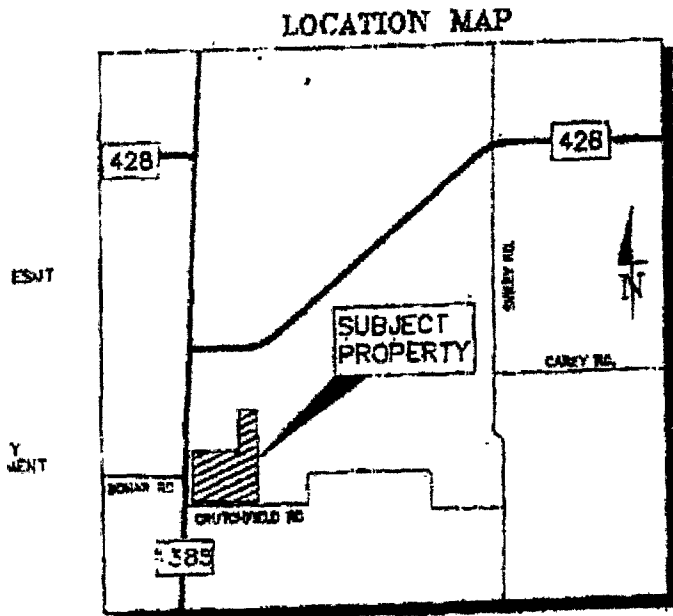




LAND USE DATA:  
 TOTAL LOT AREA - 71,822 sq. ft.  
 GARAGE AREA - 2,120 sq. ft.  
 PARKING AREA - 7,200 sq. ft.  
 TOTAL FLOOR AREA - 1,255,000 sq. ft.  
 UNCOVERED DECK AREA - 1,255,000 sq. ft.  
 TOTAL DECK AREA - 1,255,000 sq. ft.  
 TOTAL DECK AREA - 1,255,000 sq. ft.  
 TOTAL DECK AREA - 1,255,000 sq. ft.



'06 ac



# PROSPER POINT

BEING ~~128.61~~ ACRES OF LAND IN THE  
T MCINTIRE SURVEY,  
ABSTRACT NUMBER 903  
DENTON COUNTY, TEXAS



March 26, 2015

VIA EMAIL & USPS

Mr. Jason L. Pierce  
Manager of Watershed & Contract Services  
Upper Trinity Regional Water District  
Lewisville, TX 75067

Re: Request for Wholesale Water Service to a 128 Acre Residential Development in Denton County.

Dear Mr. Pierce:

Please accept this letter from Aqua Texas, Inc. ("Aqua") requesting wholesale treated water for a 128 Acre Residential Development containing up to 620 residential units in Denton County ("Site") from the existing 36-inch water transmission pipeline that is parallel to FM 1385 (see attached Wholesale Water Service Schematic). This Development is within the boundaries of Aqua's Certificate of Convenience and Necessity ("CCN") number 13201. In the spirit of regionalization and cost effectiveness, the Developer has requested that Aqua pursue a UTRWD wholesale water option in lieu of the utilization of the planned groundwater utilities which are currently being pursued by Aqua (2 Trinity Aquifer wells). The capacity of wholesale water purchased would meet the requirements of TCEQ for up to 620 residential units with firefighting capacity as well (1000 gal/min for 1 hour). Wastewater Service will be provided by Aqua (CCN number 21059) via the construction of a wastewater plant and the utilization of the existing wastewater permit (WQ001423001). Again, in the spirit of regionalization, the Developer has requested we pursue the option of extending a wastewater line to a take point located approximately 1.3 miles southeast of the Site which connects to a major UTRWD wastewater trunk line ("WW Line"). We understand there is only 100,000 gal/day capacity available in the Wastewater Line. Therefore, UTRWD must negotiate access to an additional 125,000 gal/day with the current owners of that capacity. **The willingness to pursue these options is subject to wholesale agreements being consummated in a timely fashion which does not delay the commencement of the development, as well as terms and conditions (including but not limited to wholesale rates) which are acceptable to Aqua in its sole discretion.** The Development completion is anticipated to be within 3 to 6 years.

Very truly yours,  
Aqua Texas, Inc.

Stephen M. Dunnaheo  
Business Development Coordinator

**PWS**  
**WELL PROGNOSIS**  
 MOST PROBABLE COST ESTIMATE  
 PROSPER POINT



Date: March 24, 2014

General Engineering	
Formation Name	Paluxy
Single Piece / Two Piece	Single Piece
Paired Wells	N/A
Anticipated Capacity	200 GPM
Pilot Hole Depth	1350 Feet below GL
Most Probable Cost Estimate	\$656,120.00

Casing	
Casing Diameter	10 Inch
Top of Casing	+2 Feet above GL
Base of Casing	1143 Feet below GL
Total Amount of Casing	1145 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	10 Inch
Top of Screen	1143 Feet below GL
Base of Screen	1348 Feet
Net Feet of Screen	190 feet
Net Feet of Blank	15 Feet
Total Feet of lap pipe	N/A
Top of Lap Pipe	N/A
Total Amount of Blank (blank screen + lap pipe)	15 Feet

Test Pump	
Est. Pump Setting	1344 Feet
Est. TDH	1400 Feet
Desired Test Pump Capacity	200 GPM
Est. Test Pump HP	125 HP
Est. Test Pump Size	6 Inch

Final Pump	
Final Pump Est. Setting	1344 Feet
Final Pump Est. TDH	1400 Feet
Final Pump Est. Capacity	200 GPM
Final Pump Est. HP	125 HP
Discharge Column Size	4 Inch

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	

Electrical Supply:	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addaphase / Rotaphase	No

Geology	
Formation Name	Paluxy
Est. Top of Aquifer	1143 Feet below GL
Est. Base of Aquifer	1348 Feet
Est. Capacity	200 GPM
Est. Net Sand	190 feet
Est. Static Water Level	600 Feet below GL
Est. Pumping Water Level	1300 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Prosper Point Well

*Matt Van Hatten*

Collier Consulting Staff



**TEST  
WELL PROGNOSIS  
MOST PROBABLE COST ESTIMATE  
PROSPER POINT**



Date: March 24, 2014

General Engineering	
Formation Name	Paluxy
Single Piece / Two Piece	Single Piece
Paired Wells	N/A
Anticipated Capacity	100
Pilot Hole Depth	1350 Feet below GL
Most Probable Cost Estimate	\$282,000.00

Casing	
Casing Diameter	6 Inch
Top of Casing	+2 Feet above GL
Base of Casing	1143 Feet below GL
Total Amount of Casing	1145 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	6 Inch
Top of Screen	1143 Feet below GL
Base of Screen	1348 Feet
Net Feet of Screen	190 feet
Net Feet of Blank	15 Feet
Total Feet of lap pipe	N/A
Top of Lap Pipe	N/A
Total Amount of Blank (blank screen + lap pipe)	15 Feet

Test Pump	
Est. Pump Setting	1344 Feet
Est. TDH	1400 Feet
Desired Test Pump Capacity	100 GPM
Est. Test Pump HP	50 HP
Est. Test Pump Size	6 Inch

Final Pump	
Final Pump Est. Setting	N/A
Final Pump Est. TDH	N/A
Final Pump Est. Capacity	N/A
Final Pump Est. HP	N/A
Discharge Column Size	N/A

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	

Electrical Supply:	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addaphase / Rotaphase	No

Geology	
Formation Name	Paluxy
Est. Top of Aquifer	1143 Feet below GL
Est. Base of Aquifer	1348 Feet
Est. Capacity	N/A
Est. Net Sand	190 feet
Est. Static Water Level	600 Feet below GL
Est. Pumping Water Level	1300 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant - Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Blue Mound Well 1

*Matt Van Hatten*

Collier Consulting Staff

**PWS**  
**WELL PROGNOSIS**  
 MOST PROBABLE COST ESTIMATE  
 PROSPER POINT



Date: June 10, 2014

General Engineering	
Formation Name	Trinity
Single Piece / Two Piece	Two Piece
Paired Wells	N/A
Anticipated Capacity	400 GPM
Pilot Hole Depth	2200 Feet below GL
Most Probable Cost Estimate	\$1,255,620.00

Casing	
Casing Diameter	10 Inch
Top of Casing	+2 Feet above GL
Base of Casing	1634 Feet below GL
Total Amount of Casing	1636 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	6 Inch
Top of Screen	1634 Feet below GL
Base of Screen	2197 Feet
Net Feet of Screen	275 feet
Net Feet of Blank	288 Feet
Total Feet of lap pipe	100
Top of Lap Pipe	1534
Total Amount of Blank (blank screen + lap pipe)	388 Feet

Test Pump	
Est. Pump Setting	1344 Feet
Est. TDH	1400 Feet
Desired Test Pump Capacity	200 GPM
Est. Test Pump HP	100 HP
Est. Test Pump Size	8 Inch

Final Pump	
Final Pump Est. Setting	1344 Feet
Final Pump Est. TDH	1400 Feet
Final Pump Est. Capacity	400 GPM
Final Pump Est. HP	150 hp
Discharge Column Size	6 Inch

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	Can have elevated TDS in lower sands

Electrical Supply:	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addaphase / Rotaphase	No

Geology	
Formation Name	Trinity
Est. Top of Aquifer	1634 Feet below GL
Est. Base of Aquifer	2197 Feet
Est. Capacity	300+
Est. Net Sand	275 feet
Est. Static Water Level	650 Feet below GL
Est. Pumping Water Level	1300 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Blue Mound Well 1

*Matt Van Hatten*

Collier Consulting Staff

**TEST  
WELL PROGNOSIS  
MOST PROBABLE COST ESTIMATE  
PROSPER POINT**



Date: March 24, 2014

General Engineering	
Formation Name	Trinity
Single Piece / Two Piece	Single Piece
Paired Wells	N/A
Anticipated Capacity	100 GPM
Pilot Hole Depth	2200 Feet below GL
Most Probable Cost Estimate	\$429,000.00

Casing	
Casing Diameter	6 Inch
Top of Casing	+2 Feet above GL
Base of Casing	1634 Feet below GL
Total Amount of Casing	1636 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	6 Inch
Top of Screen	1634 Feet below GL
Base of Screen	2197 Feet
Net Feet of Screen	275 feet
Net Feet of Blank	288 Feet
Total Feet of lap pipe	N/A
Top of Lap Pipe	N/A
Total Amount of Blank (blank screen + lap pipe)	288 Feet

Test Pump	
Est. Pump Setting	1344 Feet
Est. TDH	1400 Feet
Desired Test Pump Capacity	100 GPM
Est. Test Pump HP	50 HP
Est. Test Pump Size	6 Inch

Final Pump	
Final Pump Est. Setting	N/A
Final Pump Est. TDH	N/A
Final Pump Est. Capacity	N/A
Final Pump Est. HP	N/A
Discharge Column Size	N/A

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	

Electrical Supply	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addphase / Rotaphase	No

Geology	
Formation Name	Trinity
Est. Top of Aquifer	1634 Feet below GL
Est. Base of Aquifer	2197 Feet
Est. Capacity	300+
Est. Net Sand	275 feet
Est. Static Water Level	650 Feet below GL
Est. Pumping Water Level	1300 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Blue Mound Well 1

*Matt Van Hatten*

Collier Consulting Staff

**PWS**  
**WELL PROGNOSIS**  
 MOST PROBABLE COST ESTIMATE  
 PROSPER POINT



Date: June 10, 2014

General Engineering	
Formation Name	Woodbine
Single Piece / Two Piece	Single Piece
Paired Wells	N/A
Anticipated Capacity	100 GPM
Pilot Hole Depth	520 Feet below GL
Most Probable Cost Estimate	\$155,000.00

Casing	
Casing Diameter	8 Inch
Top of Casing	+2 Feet above GL
Base of Casing	336 Feet below GL
Total Amount of Casing	338 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	8 Inch
Top of Screen	336 Feet below GL
Base of Screen	518 Feet
Net Feet of Screen	140 Feet
Net Feet of Blank	44 Feet
Total Feet of lap pipe	N/A
Top of Lap Pipe	N/A
Total Amount of Blank (blank screen + lap pipe)	44 Feet

Test Pump	
Est. Pump Setting	504 Feet
Est. TDH	550 Feet
Desired Test Pump Capacity	150 GPM
Est. Test Pump HP	30 HP
Est. Test Pump Size	6 Inch

Final Pump	
Final Pump Est. Setting	504 Feet
Final Pump Est. TDH	550 Feet
Final Pump Est. Capacity	100 GPM
Final Pump Est. HP	25 HP
Discharge Column Size	3 Inch

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	Woodbine can have problems with high iron.

Electrical Supply:	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addaphase / Rotaphase	No

Geology	
Formation Name	Woodbine
Est. Top of Aquifer	336 Feet below GL
Est. Base of Aquifer	518 Feet below GL
Est. Capacity	50 GPM
Est. Net Sand	130 Feet
Est. Static Water Level	320 Feet below GL
Est. Pumping Water Level	495 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Prosper Point Well

*Matt Van Hatten*

Collier Consulting Staff

**TEST  
WELL PROGNOSIS**  
MOST PROBABLE COST ESTIMATE  
PROSPER POINT



Date: August 30, 2013

General Engineering:	
Formation Name	Woodbine
Single Piece / Two Piece	Single Piece
Paired Wells	N/A
Anticipated Capacity	50 GPM
Pilot Hole Depth	520 Feet below GL
Most Probable Cost Estimate	\$54,000.00

Casing	
Casing Diameter	4 Inch
Top of Casing	+2 Feet above GL
Base of Casing	336 Feet below GL
Total Amount of Casing	338 Feet

Screen	
Screen Type	SS rod-based wire-wrapped
Screen Diameter	4 Inch
Top of Screen	336 Feet below GL
Base of Screen	518 Feet
Net Feet of Screen	140 Feet
Net Feet of Blank	44 Feet
Total Feet of lap pipe	N/A
Top of Lap Pipe	N/A
Total Amount of Blank (blank screen + lap pipe)	44 Feet

Test Pump	
Est. Pump Setting	504 Feet
Est. TDH	550 Feet
Desired Test Pump Capacity	50 GPM
Est. Test Pump HP	15 HP
Est. Test Pump Size	4 Inch

Final Pump	
Final Pump Est. Setting	N/A
Final Pump Est. TDH	N/A
Final Pump Est. Capacity	N/A
Final Pump Est. HP	N/A
Discharge Column Size	N/A

General Site Information	
911 Address	Unknown
Well Site	Lot within Subdivision
Sanitary Easement	N/A
Utility / Access Easement	N/A
Electrical Easement	N/A
Plat	Deed
Issues with Site	None
Comments	

Electrical Supply	
Phase	Three
Voltage	460V
Buried/Overhead	generator
Addaphase / Rotaphase	No

Geology	
Formation Name	Woodbine
Est. Top of Aquifer	336 Feet below GL
Est. Base of Aquifer	518 Feet below GL
Est. Capacity	50 GPM
Est. Net Sand	130 Feet
Est. Static Water Level	320 Feet below GL
Est. Pumping Water Level	495 Feet below GL
Elevation at Site	590 Feet
Elevation at Pump Station	N/A
Log Curves Required	GR, SP, 16N, 64N, Mag. Slant Deviation, 3 Arm Caliper
Closest Electric Log	Martin "A" No 1, Love #1
Closest Water Well	Blue Mound Well 1

*Matt Van Hatten*

Collier Consulting Staff



Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
512-990-4400 ext 56104  
512-990-4410 (Fax)  
512-529-4280 (Cell)  
[gelewis@aquaamerica.com](mailto:gelewis@aquaamerica.com)

---

**From:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com) [mailto:James@mabreypartnersllc.com]  
**Sent:** Thursday, October 02, 2014 11:29 AM  
**To:** Lewis, Glen E.; Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

Stephen and Glen,

Can we set up a call today?

Thanks,  
James L. Mabrey

---

**From:** Lewis, Glen E. [mailto:GELewis@aquaamerica.com]  
**Sent:** Wednesday, May 14, 2014 1:07 PM  
**To:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com); Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

I'll get the other agreement to you as soon as I receive it from Darryl.

Glen

Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
(512) 990-4400 ext. 56104  
(512) 990-4410 - Fax  
(512) 529-4280 - Cell  
[gelewis@aquaamerica.com](mailto:gelewis@aquaamerica.com)

---

**From:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com) [mailto:James@mabreypartnersllc.com]

**Sent:** Wednesday, May 14, 2014 12:41 PM  
**To:** Lewis, Glen E.; Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

Ok, well in our camp "everything is for sale"... so doesn't hurt to ask.... let's keep moving forward.

Thanks,  
James L. Mabrey

---

**From:** Lewis, Glen E. [<mailto:GLEwis@aquaamerica.com>]  
**Sent:** Wednesday, May 14, 2014 12:37 PM  
**To:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com); Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

James, the permit is not for sale.

Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
(512) 990-4400 ext. 56104  
(512) 990-4410 - Fax  
(512) 529-4280 - Cell  
[gelewis@aquaamerica.com](mailto:gelewis@aquaamerica.com)

---

**From:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com) [<mailto:James@mabreypartnersllc.com>]  
**Sent:** Wednesday, May 14, 2014 12:32 PM  
**To:** Lewis, Glen E.; Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

Ok, ... I will check this out. Would still like to get a number to buy the permit if you would work that up for us. Thanks.

---

**From:** Lewis, Glen E. [<mailto:GLEwis@aquaamerica.com>]  
**Sent:** Wednesday, May 14, 2014 12:29 PM  
**To:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com); Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

James, I'm sorry for the delay but I work in a world that requires vetting. I completed the two agreements a little over two weeks ago and sent them to our corporate counsel in Bryn Mawr. After receiving his comments, I sent them to Darryl Waldock for his review. Yesterday I received the attached draft of the Water Supply Agreement. I inquired about the Wastewater Agreement and was told he would be reviewing it last night. I have not received his comments but expect them to be forthcoming. I will send the document to you as soon as I receive it.

In the mean time, I look forward to your comments on the water agreement.

Thanks for your patience. We will get this done.

Glen

Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
(512) 990-4400 ext. 56104  
(512) 990-4410 - Fax  
(512) 529-4280 - Cell  
[gelewis@aquaamerica.com](mailto:gelewis@aquaamerica.com)

**From:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com) [<mailto:James@mabreypartnersllc.com>]  
**Sent:** Wednesday, May 14, 2014 12:05 PM  
**To:** Lewis, Glen E.; Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

Glen,

I received the email below 3 weeks ago. Not sure what the holdup is, perhaps some corporate restructuring, but it does not appear we are going to get an agreement done to serve us.

What do you think about this –

We purchase the rights to the Sewer Permit and provide our own water? I am told it would take us 9 months to do our own sewer permit and we just don't have time for that, BUT we have been trying to work an agreement out for 6 months to no avail – can't wait on that either.

Please come up with a figure that would make financial sense so we can consider that option.

Thanks,  
James L. Mabrey

**From:** Lewis, Glen E. [<mailto:GLEwis@aquaamerica.com>]  
**Sent:** Wednesday, April 23, 2014 8:10 AM  
**To:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com); Dunnahoe, Stephen M.  
**Subject:** RE: 128 ac

Thanks for both of these James.

Glen

Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
(512) 990-4400 ext. 56104  
(512) 990-4410 - Fax  
(512) 529-4280 - Cell  
[gelewis@aquaamerica.com](mailto:gelewis@aquaamerica.com)

**From:** [James@mabreypartnersllc.com](mailto:James@mabreypartnersllc.com) [<mailto:James@mabreypartnersllc.com>]



**Sent:** Tuesday, April 22, 2014 4:19 PM  
**To:** Lewis, Glen E.; Dunnahoe, Stephen M.  
**Subject:** 128 ac

Glen – survey – boundary is good, but I think one of the easements regarding wastewater was released: JLM



Glen E. Lewis  
Director of Corporate Development  
Aqua Texas, Inc.  
1106 Clayton Lane, Suite 400W  
Austin, Texas 78723  
512-990-4400 ext 56104  
512-990-4410 (Fax)  
512-529-4280 (Cell)  
gelewis@aquaamerica.com

**From:** James@mabreypartnersllc.com [mailto:James@mabreypartnersllc.com]  
**Sent:** Tuesday, June 16, 2015 4:47 PM  
**To:** Dunnahoe, Stephen M.  
**Cc:** Lewis, Glen E.; Waldock, Darryl G.  
**Subject:** General Development Plan Application

FYI, turned this in to the City of Celina today. We made note of their erroneous assumption that they could take over the CCN from Aqua. I noticed I referred to you as a private company, which is not the case, but that won't affect anything.

Thanks,  
James L. Mabrey

**From:** Dunnahoe, Stephen M. [mailto:SMDunnahoe@aquaamerica.com]  
**Sent:** Wednesday, May 06, 2015 11:43 AM  
**To:** James@mabreypartnersllc.com  
**Cc:** Lewis, Glen E.  
**Subject:** FW: Prosper Point UTRWD Water Request

James,

I believe only the last question is directed at Aqua.



Steve Dunnahoe  
Business Development  
Aqua Texas  
O: 817.367.1403 M:817.822.3779



---

**From:** Jason Pierce [<mailto:jpierce@utrwd.com>]  
**Sent:** Wednesday, May 06, 2015 11:17 AM  
**To:** Dunnahoe, Stephen M.  
**Subject:** RE: Prosper Point UTRWD Water Request

Stephen - -

Good morning. We received Aqua's request-for wholesale water and wastewater service dated March 26 for the 128-acre residential development in northeast Denton County. In reviewing the request, we have a few questions/comments:

1. Please provide a development schedule, including when service will need to be available.
2. What is the expected water demand (such as peak day load) at build-out?
3. Does Aqua plan to use treated water from Upper Trinity for irrigation purposes within the development?
4. For water service to the remaining portions of your CCN outside of the proposed development, is that area included in your request?

Thank you for your assistance in providing this information. It may be advisable to schedule a meeting after we have reviewed this information.

If you have any questions or need clarification, please feel free to contact me. I look forward to working with you in providing water and wastewater services to the proposed development.

**Jason L. Pierce | Manager of Watershed & Contract Services**  
Upper Trinity Regional Water District  
PO Drawer 305 | Lewisville, TX 75067

T: 972-219-1228 | F: 972-219-7521 | D: 469-635-8151  
JPierce@utrwd.com | [www.utrwd.com](http://www.utrwd.com) | Sign up for [Upper Trinity's E-News](#)



Licensed Service Mark of Texas Water Development Board

**From:** Dunnahoe, Stephen M. [<mailto:SMDunnahoe@aquaamerica.com>]  
**Sent:** Monday, March 30, 2015 9:53 AM  
**To:** Jason Pierce  
**Subject:** Prosper Point UTRWD Water Request

Jason,  
My sincerest apologies. In my haste I did not attach the signed version.

Thank you



**Steve Dunnahoe**  
**Business Development**  
**Aqua Texas**  
O: 817.367.1403 M: 817.822.3779



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This email has been scanned by the Symantec Email Security.cloud service.  
For more information please visit <http://www.symanteccloud.com>

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