

Control Number: 50659



Item Number: 1

Addendum StartPage: 0



# Application for Sale, Transfer, or Merger of a Retail Public Utility

Pursuant to Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239

2020 MAR 13 AM 10:00

PUBLIC UTILITY COMMISSION  
FILING CLERK

## Sale, Transfer, or Merger (STM) Application Instructions

- I. **COMPLETE:** In order for the Commission to find the application sufficient for filing, the Applicant should:
  - i. Provide an answer to every question and submit any required attachment applicable to the STM request (i.e., agreements or contracts).
  - ii. Use attachments or additional pages to answer questions as necessary. If you use attachments or additional pages, reference their inclusion in the form.
  - iii. Provide all mapping information as detailed in Part G: Mapping & Affidavits.
- II. **FILE:** Seven (7) copies of the completed application with numbered attachments. One copy should be filed with no permanent binding, staples, tabs, or separators; and 7 copies of the portable electronic storage medium containing the digital mapping data.
  - i. **SEND TO:** Public Utility Commission of Texas, Attention: Filing Clerk, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 (NOTE: Electronic documents may be sent in advance of the paper copy, however they will not be processed and added to the Commission's on-line Interchange until the paper copy is received and file-stamped in Central Records).
- III. The application will be assigned a docket number, and an administrative law judge (ALJ) will issue an order requiring Commission Staff to file a recommendation on whether the application is sufficient. The ALJ will issue an order after Staff's recommendation has been filed:
  - i. **DEFICIENT (Administratively Incomplete):** Applicants will be ordered to provide information to cure the deficiencies by a certain date, usually 30 days from ALJ's order. **Application is not accepted for filing.**
  - ii. **SUFFICIENT (Administratively Complete):** Applicants will be ordered by the ALJ to give appropriate notice of the application using the notice prepared by Commission Staff. **Application is accepted for filing.**
- IV. Once the Applicants issue notice, a copy of the actual notice sent and an affidavit attesting to notice should be filed in the docket assigned to the application. Recipients of notice may request a hearing on the merits.

**HEARING ON THE MERITS:** An affected party may request a hearing within 30 days of notice. In this event, the application may be referred to the State Office of Administrative Hearings (SOAH) to complete this request.
- V. **TRANSACTION TO PROCEED:** at any time following the provision of notice, or prior to 120 days from the last date that proper notice was given, Commission Staff will file a recommendation for the transaction to proceed as proposed or recommend that the STM be referred to SOAH for further investigation. The Applicants will be required to file an update in the docket to the ALJ every 30 days following the approval of the transaction. The transaction must be completed within six (6) months from the ALJ's order (Note: The Applicants may request an extension to the 6 month provision for good cause).
- VI. **FILE:** Seven (7) copies of completed transaction documents and documentation addressing the transfer or disposition of any outstanding deposits. After receiving all required documents from the Applicants, the application will be granted a procedural schedule for final processing. The Applicants are requested to consent in writing to the proposed maps and certificates, or tariff if applicable.
- VII. **FINAL ORDER:** The ALJ will issue a final order issuing or amending the applicable CCNs.

### FAQ:

#### Who can use this form?

Any retail public utility that provides water or wastewater service in Texas.

#### Who is required to use this form?

A retail public utility that is an investor owned utility (IOU) or a water supply corporation (WSC) prior to any STM of a water or sewer system, or utility, or prior to the transfer of a portion of a certificated service area.

### Terms

**Transferor:** Seller

**Transferee:** Purchaser

**CCN:** Certificate of Convenience and Necessity

**STM:** Sale, Transfer, or Merger

**IOU:** Investor Owned Utility

## Application Summary

**Transferor:** MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126

*(selling entity)*

**CCN No.s:** 13258 & 21104

☐ Sale
 ☒ Transfer
 ☐ Merger
 ☐ Consolidation
 ☐ Lease/Rental

**Transferee:** CITY OF CONROE

*(acquiring entity)*

**CCN No.s:** 20135 & 10339

☐ Water
 ☐ Sewer
 ☒ All CCN
 ☐ Portion CCN
 ☐ Facilities transfer

**County(ies):** MONTGOMERY COUNTY

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### Please mark the items included in this filing

<input checked="" type="checkbox"/> Contract, Lease, Purchase, or Sale Agreement	Part A: Question 1
<input type="checkbox"/> Tariff including Rate Schedule	Part B: Question 4
<input type="checkbox"/> List of Customer Deposits	Part B: Question 5
<input type="checkbox"/> Partnership Agreement	Part C: Question 7
<input type="checkbox"/> Articles of Incorporation and By-Laws (WSC)	Part C: Question 7
<input type="checkbox"/> Certificate of Account Status	Part C: Question 7
<input checked="" type="checkbox"/> Financial Audit	Part C: Question 10
<input type="checkbox"/> Application Attachment A & B	Part C: Question 10
<input type="checkbox"/> Disclosure of Affiliated Interests	Part C: Question 10
<input checked="" type="checkbox"/> Capital Improvement Plan	Part C: Question 10
<input type="checkbox"/> List of Assets to be Transferred	Part D: 11.B
<input type="checkbox"/> Developer Contribution Contracts or Agreements	Part D: 11.D
<input type="checkbox"/> Enforcement Action Correspondence	Part E: Question 18 (Part D: Q12)
<input type="checkbox"/> TCEQ Compliance Correspondence	Part F: Question 22
<input type="checkbox"/> TCEQ Engineering Approvals	Part F: Question 24
<input type="checkbox"/> Purchased Water Supply or Treatment Agreement	Part F: Question 26
<input type="checkbox"/> Detailed (large scale) Map	Part G: Question 29
<input checked="" type="checkbox"/> General Location (small scale) Map	Part G: Question 29
<input type="checkbox"/> Digital Mapping Data	Part G: Question 29
<input type="checkbox"/> Signed & Notarized Oath	Page 13-14

### Part A: General Information

1. Describe the proposed transaction, including the effect on all CCNs involved, and provide details on the existing or expected land use in the area affected by the proposed transaction. Attach all supporting documentation, such as a contract, a lease, or proposed purchase agreements:

The proposed action of this application is to assign the MUD 126 CCNs to the City of Conroe. Attached is a copy of the agreement between the City of Conroe and Montgomery County MUD 126.

2. The proposed transaction will require (check all applicable):

For **Transferee** (Purchaser) CCN:

- ☐ Obtaining a NEW CCN for Purchaser  
☒ Transfer all CCN into Purchaser's CCN (Merger)  
☐ Transfer Portion of CCN into Purchaser's CCN  
☐ Transfer all CCN to Purchaser and retain Seller CCN  
☐ Uncertificated area added to Purchaser's CCN

For **Transferor** (Seller) CCN:

- ☒ Cancellation of Seller's CCN  
☐ Transfer of a Portion of Seller's CCN to Purchaser  
☐ Only Transfer of Facilities, No CCN or Customers  
☐ Only Transfer of Customers, No CCN or Facilities  
☐ Only Transfer CCN Area, No Customers or Facilities

### Part B: Transferor Information

Questions 3 through 5 apply only to the *transferor* (current service provider or seller)

3. A. Name: MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126

(individual, corporation, or other legal entity)

☐ Individual ☐ Corporation ☐ WSC ☒ Other: MUD

- B. Mailing Address: 1300 POST OAK BLVD., SUITE 1400, HOUSTON, TX 77056

Phone: (713) 623-4531

Email: ARUBINSKY@SPHLLP.COM

- C. Contact Person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title.

Name: ABRAHAM I. RUBINSKY

Title: ATTORNEY

Mailing Address: 1300 POST OAK BLVD., SUITE 1400, HOUSTON, TX 77056

Phone: (713) 623-4531

Email: ARUBINSKY@SPHLLP.COM

4. If the utility to be transferred is an Investor Owned Utility (IOU), for the most recent rate change, attach a copy of the current tariff and complete A through B:

- A. Effective date for most recent rates: \_\_\_\_\_

- B. Was notice of this increase provided to the Public Utility Commission of Texas (Commission) or a predecessor regulatory authority?

☐ No ☐ Yes Application or Docket Number: \_\_\_\_\_

**If the transferor is a Water Supply or Sewer Service Corporation, provide a copy of the current tariff.**

- 5.** For the customers that will be transferred following the approval of the proposed transaction, check all that apply:

☐ There are no customers that will be transferred

<input checked="" type="checkbox"/>	# of customers without deposits held by the transferor	397
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☐ # of customers with deposits held by the transferor\*

\*Attach a list of all customers affected by the proposed transaction that have deposits held, and include a customer indicator (name or account number), date of each deposit, amount of each deposit, and any unpaid interest on each deposit.

### Part C: Transferee Information

**Questions 6 through 10 apply only to the *transferee* (purchaser or proposed service provider)**

6. A. Name: CITY OF CONROE

(individual, corporation, or other legal entity)

☐ Individual ☐ Corporation ☐ WSC ☒ Other: MUNICIPALITY

**B. Mailing Address:** PO BOX 3066, CONROE, TX 77305-3066

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

C. Contact Person. Provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title.

Name: MARCUS WINBERRY Title: CITY ATTORNEY

**Address:** 300 WEST DAVIS STREET, CONROE, TX 77301

Phone: (936) 522-3030 Email: [MWINBERRY@CITYOFCONROE.ORG](mailto:MWINBERRY@CITYOFCONROE.ORG)

**D.** If the transferee is someone other than a municipality, is the transferee current on the Regulatory Assessment Fees (RAF) with the Texas Commission on Environmental Quality (TCEQ)?

☐ No    ☐ Yes    ☒ N/A

**E.** If the transferee is an IOU, is the transferee current on the Annual Report filings with the Commission?

☐ No    ☐ Yes    ☒ N/A

**7. The legal status of the transferee is:**

☐ Individual or sole proprietorship☐ Partnership or limited partnership (*attach* Partnership agreement)

☐ Corporation | Charter number (as recorded with the Texas Secretary of State):

☐ Non-profit, member-owned, member controlled Cooperative Corporation [Article 1434(a) Water Supply or Sewer Service Corporation, incorporated under TWC Chapter 67]  
Charter number (as recorded with the Texas Secretary of State):

Articles of Incorporation and By-Laws established (*attach*)

☒ Municipally-owned utility☐ District (MUD, SUD, WCID, FWSD, etc.)

☐ County

☐ Affected County (a county to which Subchapter B, Chapter 232, Local Government Code, applies)

☐ Other (please explain): \_\_\_\_\_

8. If the transferee operates under any d/b/a, provide the name below:

Name: \_\_\_\_\_

9. If the transferee's legal status is anything other than an individual, provide the following information regarding the officers, members, or partners of the legal entity applying for the transfer:

Name: SEE ATTACHMENT 4

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

10. **Financial Information**

The transferee Applicant must provide accounting information typically included within a balance sheet, income statement, and statement of cash flows. If the Applicant is an existing retail public utility, this must include historical financial information and projected financial information. However, projected financial information is only required if the Applicant proposes new service connections and new investment in plant, or if requested by Staff. If the Applicant is a new market entrant and does not have its own historical balance sheet, income statement, and statement of cash flows information, then the Applicant should establish a five-year projection taking the historical information of the transferor Applicant into consideration when establishing the projections.

**Historical Financial Information may be shown by providing any combination of the following that includes necessary information found in a balance sheet, income statement, and statement of cash flows:**

1. Completed Appendix A;
2. Documentation that includes all of the information required in Appendix A in a concise format; or
3. Audited financial statements issued within 18 months of the application filing date. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

**Projected Financial Information may be shown by providing any of the following:**

1. Completed Appendix B;
2. Documentation that includes all of the information required in Appendix B in a concise format;
3. A detailed budget or capital improvement plan, which indicates sources and uses of funds required, including improvements to the system being transferred; or
4. A recent budget and capital improvements plan that includes information needed for analysis of the operations test (16 Tex. Admin. Code § 24.11(e)(3)) for the system being transferred and any operations combined with the system. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

**Part D: Proposed Transaction Details**

11. A. Proposed Purchase Price: \$ 0.00

If the transferee Applicant is an investor owned utility (IOU) provide answers to B through D.

B. Transferee has a copy of an inventory list of assets to be transferred (*attach*):

☐ No ☐ Yes ☐ N/A

Total Original Cost of Plant in Service: \$                     

Accumulated Depreciation: \$                     

Net Book Value: \$                     

C. **Customer contributions in aid of construction (CIAC):** Have the customers been billed for any surcharges approved by the Commission or TCEQ to fund any assets currently used and useful in providing utility service? Identify which assets were funded, or are being funded, by surcharges on the list of assets.

☐ No ☐ Yes

Total Customer CIAC: \$                     

Accumulated Amortization: \$                     

D. **Developer CIAC:** Did the transferor receive any developer contributions to pay for the assets proposed to be transferred in this application? If so, identify which assets were funded by developer contributions on the list of assets and provide any applicable developer agreements.

☐ No ☐ Yes

Total developer CIAC: \$                     

Accumulated Amortization: \$                     

12. A. Are any improvements or construction required to meet the minimum requirements of the TCEQ or Commission and to ensure continuous and adequate service to the requested area to be transferred plus any area currently certificated to the transferee Applicant? Attach supporting documentation and any necessary TCEQ approvals, if applicable.

☒ No ☐ Yes

**B.** If yes, describe the source and availability of funds and provide an estimated timeline for the construction of any planned or required improvements:

N/A

**13.** Provide any other information concerning the nature of the transaction you believe should be given consideration:

The City of Conroe is currently providing wholesale water and sewer service to this MUD, and the MUD is within the Conroe city limits. The agreement between the MUD and City states that the system assets will be conveyed to the City, reserving a security interest in the assets in favor of the MUD for the purpose of securing the performance of the City under the agreement.

**14.** Complete the following proposed entries (listed below) as shown in the books of the Transferee (purchaser) after the acquisition. Debits (positive numbers) should equal credits (negative numbers) so that all line items added together equal zero. Additional entries may be made; the following are suggested only, and not intended to pose descriptive limitations:

Utility Plant in Service:	\$	
Accumulated Depreciation of Plant:	\$	
Cash:	\$	
Notes Payable:	\$	
Mortgage Payable:	\$	
(Proposed) Acquisition Adjustment*:	\$	4,130,365.40
* Acquisition Adjustments will be subject to review under 16 TAC § 24.41(d) and (e)		
Other (NARUC account name & No.):		
Other (NARUC account name & No.):		

**15. A.** Explain any proposed billing change (NOTE: If the acquiring entity is an IOU, the IOU may not change the rates charged to the customers through this STM application. Rates can only be changed through the approval of a rate change application.)

Residents currently receive a monthly bill from the City of Conroe that charges for solid waste service, and they receive a monthly bill from the MUD for water/sewer utility service. Residents will now receive one monthly bill from the City of Conroe at the current in-City rates charged to all other customers in the same utility class (i.e. residential customers). Residents will see a \$10.00 per month surcharge for the AquaTexas settlement agreement that is only applicable to their subdivision. The AquaTexas settlement agreement ends on November 30, 2038.

**B.** If transferee is an IOU, state whether or not the transferee intends to file with the Commission, or an applicable municipal regulatory authority, an application to change rates for some or all of its customers as a result of the transaction within the next twelve months. If so, provide details below:

**Part E: CCN Obtain or Amend Criteria Considerations**

16. Describe, in detail, the anticipated impact or changes in the quality of retail public utility service in the requested area as a result of the proposed transaction:

CURRENTLY, THE CITY OF CONROE SUPPLIES WATER TO AND TAKES WASTEWATER FROM MUD 126. THIS DISTRIBUTION AND COLLECTION SYSTEMS ARE OPERATED AND MAINTAINED BY A PRIVATE COMPANY. ANY CUSTOMER ISSUES MUST GO THROUGH THE OPERATIONS COMPANY BEFORE REACHING CITY OF CONROE PUBLIC WORKS DEPARTMENT. IT IS ANTICIPATED THAT THE TRANSFER WILL REDUCE RESPONSE TIMES; OTHERWISE, THE CUSTOMER SHOULD SEE NO DIFFERENCE.

17. Describe the transferee's experience and qualifications in providing continuous and adequate service. This should include, but is not limited to: other CCN numbers, water and wastewater systems details, and any corresponding compliance history for all operations.

THE CITY OF CONROE HAS OPERATED MUNICIPAL WASTEWATER AND WATER SYSTEMS SUCCESSFULLY FOR YEARS. THE CITY ALSO PROVIDES WASTEWATER COLLECTION AND TREATMENT AND DRINKING WATER TO OTHER MUNICIPAL UTILITY DISTRICTS. THE CITY HAS AN EXCELLENT COMPLIANCE HISTORY WITH TCEQ AND HAS A "SUPERIOR" RATED PUBLIC WATER SYSTEM. THE CITY ASSURES THAT NEW INFRASTRUCTURE IS IN PLACE TO PROVIDE FOR GROWTH AND DEVELOPMENT WHILE MAINTAINING EXISTING INFRASTRUCTURE IN ACCORDANCE WITH UTILITIES MASTER PLANS. CURRENT CAPACITIES EXCEED DEMAND.

18. Has the transferee been under an enforcement action by the Commission, TCEQ, Texas Department of Health (TDH), the Office of the Attorney General (OAG), or the Environmental Protection Agency (EPA) in the past five (5) years for non-compliance with rules, orders, or state statutes? Attach copies of any correspondence with the applicable regulatory agency(ies)

☒ No

☐ Yes

19. Explain how the environmental integrity or the land will be impacted or disrupted as a result of the proposed transaction:

THERE SHOULD BE NO IMPACT AS A RESULT OF THE PROPOSED TRANSACTION.

20. How will the proposed transaction serve the public interest?

THE CCN IS LOCATED WITHIN THE CITY LIMITS OF THE CITY OF CONROE. THE CUSTOMERS WILL RECEIVE A UTILITY BILL FROM THE CITY OF CONROE AND BE TREATED IN THE SAME MANNER AS ALL OTHER IN-CITY CUSTOMERS.

21. List all neighboring water or sewer utilities, cities, districts (including ground water conservation districts), counties, or other political subdivisions (including river authorities) providing the same service within two (2) miles from the outer boundary of the requested area affected by the proposed transaction:

CITY OF CONROE, CITY OF WILLIS, LIBERTY UTILITIES (SILVERLEAF WATER) LLC, AQUA TEXAS INC

**Part F: TCEQ Public Water System or Sewer (Wastewater) Information**

Complete Part F for EACH Public Water or Sewer system to be transferred subject to approval of the transaction.  
Attach a separate sheet with this information if you need more space for additional systems being transferred.

**22. A. For Public Water System (PWS):**TCEQ PWS Identification Number: TX1700833 (7 digit ID)Name of PWS: Montgomery County MUD No. 126

Date of last TCEQ compliance inspection: \_\_\_\_\_ (attach TCEQ letter)

Subdivisions served: Water Crest on Lake Conroe**B. For Sewer service:**TCEQ Water Quality (WQ) Discharge Permit Number: WQ - (8 digit ID)

Name of Wastewater Facility: \_\_\_\_\_

Name of Permittee: \_\_\_\_\_

Date of last TCEQ compliance inspection: \_\_\_\_\_ (attach TCEQ letter)

Subdivisions served: \_\_\_\_\_

Date of application to transfer permit submitted to TCEQ: \_\_\_\_\_**23. List the number of existing connections, by meter/connection type, to be affected by the proposed transaction:**

Water				Sewer	
70	Non-metered	2	2"	548	Residential
490	5/8" or 3/4"	0	3"	0	Commercial
2	1"	2	4"	0	Industrial
2	1 1/2"	0	Other	1	Other
Total Water Connections:		568		Total Sewer Connections:	549

**24. A. Are any improvements required to meet TCEQ or Commission standards?**☒ No ☐ Yes**B. Provide details on each required major capital improvement necessary to correct deficiencies to meet the TCEQ or Commission standards (attach any engineering reports or TCEQ approval letters):**

Description of the Capital Improvement:	Estimated Completion Date:	Estimated Cost:

**C. Is there a moratorium on new connections?**☐ No ☐ Yes:**25. Does the system being transferred operate within the corporate boundaries of a municipality?**☐ No ☒ Yes: CITY OF CONROE (name of municipality)

If yes, indicate the number of customers within the municipal boundary.

Water: 20,850Sewer: 18,776

26. A. Does the system being transferred purchase water or sewer treatment capacity from another source?

☐ No ☒ Yes: If yes, attach a copy of purchase agreement or contract.

Capacity is purchased from: CITY OF CONROE

Water: CITY OF CONROE

Sewer: CITY OF CONROE

B. Is the PWS required to purchase water to meet capacity requirements or drinking water standards?

☐ No ☒ Yes

C. What is the amount of water supply or sewer treatment purchased, per the agreement or contract? What is the percent of overall demand supplied by purchased water or sewer treatment (if any)?

	Amount in Gallons	Percent of demand
Water:		0.00%
Sewer:		0.00%

D. Will the purchase agreement or contract be transferred to the Transferee?

☒ No ☐ Yes:

27. Does the PWS or sewer treatment plant have adequate capacity to meet the current and projected demands in the requested area?

☐ No ☒ Yes:

28. List the name, class, and TCEQ license number of the operator that will be responsible for the operations of the water or sewer utility service:

Name (as it appears on license)	Class	License No.	Water or Sewer
DANIEL ROBERTS	B	WC0015435-GW TREATMENT OPERATOR	WATER
DANIEL ROBERTS	III	WW0057526-WW COLLECTIONS OPERATOR	SEWER

### Part G: Mapping & Affidavits

**ALL applications require mapping information to be filed in conjunction with the STM application.**  
***Read question 29 A and B to determine what information is required for your application.***

29. A. For applications requesting to transfer an entire CCN, without a CCN boundary adjustment, provide the following mapping information with each of the seven (7) copies of the application:

1. A general location (small scale) map identifying the requested area in reference to the nearest county boundary, city, or town. The following guidance should be adhered to:
  - i. If the application requests to transfer certificated service areas for both water and sewer, separate maps must be provided for each.
  - ii. A hand drawn map, graphic, or diagram of the requested area is not considered an acceptable mapping document.

- iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.

- 2. A detailed (large scale) map identifying the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers, and railroads. The Applicant should adhere to the following guidance:
  - i. The map must be clearly labeled and the outer boundary of the requested area should be marked in reference to the verifiable man-made or natural landmarks. These verifiable man-made or natural landmarks must be labeled and marked on the map as well.
  - ii. If the application requests an amendment for both water and sewer certificated service area, separate maps need to be provided for each.
  - iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.
  - iv. The outer boundary of the requested area should not be covered by any labels, roads, city limits or extraterritorial jurisdiction (ETJ) boundaries.

**B.** For applications that are requesting to include area not currently within a CCN, or for applications that require a CCN amendment (any change in a CCN boundary), such as the transfer of only a portion of a certificated service area, provide the following mapping information with each of the seven (7) copies of the application:

- 1. A general location (small scale) map identifying the requested area with enough detail to locate the requested area in reference to the nearest county boundary, city, or town. Please refer to the mapping guidance in part A 1 (above).
- 2. A detailed (large scale) map identifying the requested area with enough detail to accurately locate the requested area in reference to verifiable man-made or natural landmarks such as roads, rivers, or railroads. Please refer to the mapping guidance in part A 2 (above).
- 3. One of the following identifying the requested area:
  - i. A metes and bounds survey sealed or embossed by either a licensed state land surveyor or a registered professional land surveyor. Please refer to the mapping guidance in part A 2 (above);
  - ii. A recorded plat. If the plat does not provide sufficient detail, Staff may request additional mapping information. Please refer to the mapping guidance in part A 2 (above); or
  - iii. Digital mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters). The digital mapping data shall include a single, continuous polygon record. The following guidance should be adhered to:
    - a. The digital mapping data must correspond to the same requested area as shown on the general location and detailed maps. The requested area must be clearly labeled as either the water or sewer requested area.
    - b. A shapefile should include six files (.dbf, .shp, .shx, .sbx, .sbn, and the projection (.prj) file).
    - c. The digital mapping data shall be filed on a data disk (CD or USB drive), clearly labeled, and filed with Central Records. Seven (7) copies of the digital mapping data is also required.

**Part H: Notice Information**

The following information will be used to generate the proposed notice for the application.  
**DO NOT provide notice** of the application until it is found sufficient and the Applicants are ordered to provide notice.

30. Complete the following using verifiable man-made or natural landmarks such as roads, rivers, or railroads to describe the requested area (to be stated in the notice documents). Measurements should be approximated from the outermost boundary of the requested area:

The total acreage of the requested area is approximately: 174.00

Number of customer connections in the requested area: 568

Affected subdivision : WATERCREST ON LAKE CONROE - MUD 126

The closest city or town: CONROE, TX

Approximate mileage to closest city or town center: 8

Direction to closest city or town: CONROE IS LOCATED SOUTH EAST OF THIS AREA

The requested area is generally bounded on the North by: LEAGUE LINE ROAD

on the East by: LONGMIRE ROAD

on the South by: LONGMIRE WAY ROAD

on the West by: LAKE CONROE

31. A copy of the proposed map will be available at: <https://www.cityofconroe.org/departments/legal-department/legal-notice-bids>

32. What effect will the proposed transaction have on an average bill to be charged to the affected customers? Take into consideration the average consumption of the requested area, as well as any other factors that would increase or decrease a customer's monthly bill.

☐ All of the customers will be charged the same rates they were charged before the transaction.

☒ All of the customers will be charged different rates than they were charged before the transaction.

☐ higher monthly bill ☒ lower monthly bill

☐ Some customers will be charged different rates than they were charged before  
(i.e. inside city limit customers)

☐ higher monthly bill ☐ lower monthly bill

**Oath for Transferor (Transferring Entity)**

STATE OF Texas

COUNTY OF Harris

I, John H. Eichelberger III being duly sworn, file this application for sale, transfer,

merger, consolidation, acquisition, lease, or rental, as

Attorney For the District

(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

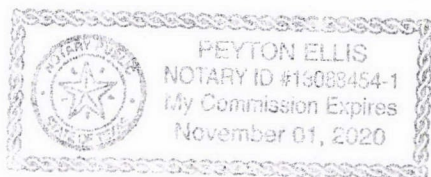
I further state that I have been provided with a copy of the 16 TAC § 24.239 Commission rules. I am also authorized to agree and do agree to be bound by and comply with any outstanding enforcement orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

J. H. Eichelberger III  
**AFFIANT**  
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

**SUBSCRIBED AND SWORN BEFORE ME**, a Notary Public in and for the State of Texas  
this day the 28th of February, 2020

SEAL



Peyton Ellis  
**NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS**

Peyton Ellis

**PRINT OR TYPE NAME OF NOTARY**

My commission expires: 11/01/2020

## Oath for Transferee (Acquiring Entity)

STATE OF TEXAS

COUNTY OF MONTGOMERY

I, PAUL VIRGADAMO being duly sworn, file this application for sale, transfer, merger, consolidation, acquisition, lease, or rental, as CITY ADMINISTRATOR  
(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I further state that I have been provided with a copy of the 16 TAC § 24.239 Commission rules. I am also authorized to agree and do agree to be bound by and comply with any outstanding enforcement orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

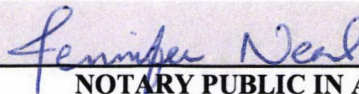
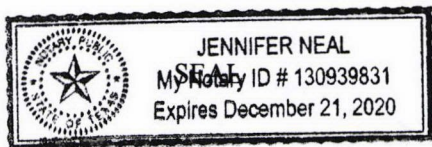


**AFFIANT**  
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

**SUBSCRIBED AND SWORN BEFORE ME**, a Notary Public in and for the State of Texas

this day 10<sup>th</sup> of March, 2020



**NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS**

Jennifer Neal

**PRINT OR TYPE NAME OF NOTARY**

**My commission expires:** December 21, 2020

## Appendix A: Historical Financial Information (Balance Sheet and Income Schedule)

*(Audited financial statements may be substituted for this schedule – see Item 17 of the instructions)*

HISTORICAL BALANCE SHEETS (ENTER DATE OF YEAR END)	CURRENT(A) ( - - )	A-1 YEAR ( - - )	A-2 YEAR ( - - )	A-3 YEAR ( - - )	A-4 YEAR ( - - )	A-5 YEAR ( - - )
<b>CURRENT ASSETS</b>						
Cash						
Accounts Receivable						
Inventories						
Other						
<b>A. Total Current Assets</b>						
<b>FIXED ASSETS</b>						
Land						
Collection/Distribution System						
Buildings						
Equipment						
Other						
Less: Accum. Depreciation or Reserves						
<b>B. Total Fixed Assets</b>						
<b>C. TOTAL Assets (A + B)</b>						
<b>CURRENT LIABILITIES</b>						
Accounts Payable						
Notes Payable, Current						
Accrued Expenses						
Other						
<b>D. Total Current Liabilities</b>						
<b>LONG TERM LIABILITIES</b>						
Notes Payable, Long-term						
Other						
<b>E. Total Long Term Liabilities</b>						
<b>F. TOTAL LIABILITIES (D + E)</b>						
<b>OWNER'S EQUITY</b>						
Paid in Capital						
Retained Equity						
Other						
Current Period Profit or Loss						
<b>G. TOTAL OWNER'S EQUITY</b>						
<b>TOTAL LIABILITIES+EQUITY (F + G) = C</b>						
<b>WORKING CAPITAL (A – D)</b>						
<b>CURRENT RATIO (A / D)</b>						
<b>DEBT TO EQUITY RATIO (E / G)</b>						

**DO NOT INCLUDE ATTACHMENTS A OR B IN FILED APPLICATION IF LEFT BLANK**

HISTORICAL NET INCOME INFORMATION						
(ENTER DATE OF YEAR END)	CURRENT(A) ( - - )	A-1 YEAR ( - - )	A-2 YEAR ( - - )	A-3 YEAR ( - - )	A-4 YEAR ( - - )	A-5 YEAR ( - - )
<b>METER NUMBER</b>						
Existing Number of Taps						
New Taps Per Year						
<b>Total Meters at Year End</b>						
<b>METER REVENUE</b>						
Revenue per Meter (use for projections)						
Expense per Meter (use for projections)						
<b>Operating Revenue Per Meter</b>						
<b>GROSS WATER REVENUE</b>						
Revenues- Base Rate & Gallonage Fees						
Other (Tap, reconnect, transfer fees, etc)						
<b>Gross Income</b>						
<b>EXPENSES</b>						
General & Administrative (see schedule)						
Operating (see schedule)						
Interest						
Other (list)						
<b>NET INCOME</b>						

<b>HISTORICAL EXPENSE INFORMATION (ENTER DATE OF YEAR END)</b>	<b>CURRENT(A) ( - - )</b>	<b>A-1 YEAR ( - - )</b>	<b>A-2 YEAR ( - - )</b>	<b>A-3 YEAR ( - - )</b>	<b>A-4 YEAR ( - - )</b>	<b>A-5 YEAR ( - - )</b>
<b>GENERAL/ADMINISTRATIVE EXPENSES</b>						
Salaries & Benefits–Office/Management						
Office (services, rentals, supplies, electricity)						
Contract Labor						
Transportation						
Insurance						
Telephone						
Utilities						
Property Taxes						
Professional Services/Fees (recurring)						
Regulatory- other						
Other (describe)						
Interest						
Other						
<b>Total General Admin. Expenses (G&amp;A)</b>						
<b>% Increase Per Year</b>	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>OPERATIONS &amp; MAINTENANCE EXPENSES</b>						
Salaries & Benefits (Employee, Management)						
Materials & Supplies						
Utilities Expense-office						
Contract Labor						
Transportation Expense						
Depreciation Expense						
Other(describe)						
<b>Total Operational Expenses (O&amp;M)</b>						
<b>Total Expense (Total G&amp;A + O&amp;M)</b>						
<b>Historical % Increase Per Year</b>	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>ASSUMPTIONS</b>						
Interest Rate/Terms						
Depreciation Schedule (attach)						
Other assumptions/information (List all)						

**Appendix B: Projected Information**

<b>HISTORICAL BALANCE SHEETS (ENTER DATE OF YEAR END)</b>	<b>CURRENT(A) ( - - )</b>	<b>A-1 YEAR ( - - )</b>	<b>A-2 YEAR ( - - )</b>	<b>A-3 YEAR ( - - )</b>	<b>A-4 YEAR ( - - )</b>	<b>A-5 YEAR ( - - )</b>
<b>CURRENT ASSETS</b>						
Cash						
Accounts Receivable						
Inventories						
Income Tax Receivable						
Other						
<b>A. Total Current Assets</b>						
<b>FIXED ASSETS</b>						
Land						
Collection/Distribution System						
Buildings						
Equipment						
Other						
Less: Accum. Depreciation or Reserves						
<b>B. Total Fixed Assets</b>						
<b>C. TOTAL Assets (A + B)</b>						
<b>CURRENT LIABILITIES</b>						
Accounts Payable						
Notes Payable, Current						
Accrued Expenses						
Other						
<b>D. Total Current Liabilities</b>						
<b>LONG TERM LIABILITIES</b>						
Notes Payable, Long-term						
Other						
<b>E. Total Long Term Liabilities</b>						
<b>F. TOTAL LIABILITIES (D + E)</b>						
<b>OWNER'S EQUITY</b>						
Paid in Capital						
Retained Equity						
Other						
Current Period Profit or Loss						
<b>G. TOTAL OWNER'S EQUITY</b>						
<b>TOTAL LIABILITIES+EQUITY (F + G) = C</b>						
<b>WORKING CAPITAL (A - D)</b>						
<b>CURRENT RATIO (A / D)</b>						
<b>DEBT TO EQUITY RATIO (F / G)</b>						

PROJECTED NET INCOME INFORMATION						
(ENTER DATE OF YEAR END )	CURRENT(A) ( - - )	A-1 YEAR ( - - )	A-2 YEAR ( - - )	A-3 YEAR ( - - )	A-4 YEAR ( - - )	A-5 YEAR ( - - )
<b>METER NUMBER</b>						
Existing Number of Taps						
New Taps Per Year						
<b>Total Meters at Year End</b>						
<b>METER REVENUE</b>						
Revenue per Meter (use for projections)						
Expense per Meter (use for projections)						
<b>Operating Revenue Per Meter</b>						
<b>GROSS WATER REVENUE</b>						
Revenues- Base Rate & Gallonage Fees						
Other (Tap, reconnect, transfer fees, etc)						
<b>Gross Income</b>						
<b>EXPENSES</b>						
General & Administrative (see schedule)						
Operating (see schedule)						
Interest						
Other (list)						
<b>NET INCOME</b>						

PROJECTED EXPENSE DETAIL	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTALS
<b>GENERAL/ADMINISTRATIVE EXPENSES</b>						
Salaries						
Office						
Computer						
Auto						
Insurance						
Telephone						
Utilities						
Depreciation						
Property Taxes						
Professional Fees						
Interest						
Other						
<b>Total</b>						
<b>% Increase Per projected Year</b>	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>OPERATIONAL EXPENSES</b>						
Salaries						
Auto						
Utilities						
Depreciation						
Repair & Maintenance						
Supplies						
Interest						
Other						
<b>Total</b>						

<b>PROJECTED SOURCES AND USES OF CASH STATEMENTS</b>	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTALS
<b>SOURCES OF CASH</b>						
Net Income						
Depreciation (If funded by revenues of system)						
Loan Proceeds						
Other						
<b>Total Sources</b>						
<b>USES OF CASH</b>						
Net Loss						
Principle Portion of Pmts.						
Fixed Asset Purchase						
Reserve						
Other						
<b>Total Uses</b>						
<b>NET CASH FLOW</b>						
<b>DEBT SERVICE COVERAGE</b>						
Cash Available for Debt Service (CADS)						
A: Net Income (Loss)						
B: Depreciation, or Reserve Interest						
<b>C: Total CADS (A + B = C)</b>						
<b>D: DEBT SERVICE (DS)</b>						
Principle Plus Interest						
<b>E: DEBT SERVICE COVERAGE RATIO</b>						
CADS Divided by DS (E = C / D)						

AMENDED AND RESTATED  
UTILITY SERVICES AND DEVELOPMENT AGREEMENT

THE STATE OF TEXAS           §  
                                          §  
COUNTY OF MONTGOMERY   §

THIS AMENDED AND RESTATED UTILITY SERVICES AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the dates set forth below to be effective as of the 22 day of Aug, 2019 (the "Effective Date"), by and between the **CITY OF CONROE, TEXAS** (the "City"), a municipal corporation and home-rule city located in Montgomery County, Texas, and **MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126**, a body politic and corporate and governmental agency of the State of Texas organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54, Texas Water Code, as amended (the "District"). (The City and the District are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties.")

RECITALS

1. The City is a municipal corporation that provides a full range of governmental services to its citizens. The City owns and operates water production and distribution facilities, wastewater collection and treatment facilities, a police department, and a fire department and provides other municipal services.
2. David B. Hendricks ("Hendricks") and Houston Intercontinental Trade Center, Ltd. ("HITC") purchased an approximately 293 acre tract of land in Montgomery County, Texas, that was located within the City's extraterritorial jurisdictional (the "Initial Property"). (Hendricks and HITC are sometimes referred to in this Agreement, collectively as the "Initial Developer.")
3. Approximately 173.63 acres of the Initial Property (the "Aqua CCN Property") were located within the certificated area of water Certificate of Convenience and Necessity ("CCN") No. 12902 and sewer CCN No. 20867 held and owned by Aqua Development, Inc., a Texas corporation ("Aqua Development") as issued by the Texas Natural Resource Conservation Commission (now known as the Texas Commission on Environmental Quality or the "TCEQ") on August 7, 2000 (collectively, the "Aqua Development CCNs"), which granted to Aqua Development the exclusive right to provide retail water and sewer services to the area covered by such CCNs.
4. The Initial Developer, acting on behalf of the then-proposed District, and Aqua Development and Aqua Operations, Inc., a Delaware corporation, doing business as Aqua Texas, Inc. ("Aqua Operations") entered into that certain Operations and Maintenance Agreement, dated January 18, 2008, (the "Aqua Operations and Maintenance Agreement") wherein Aqua Development agreed to either release

the Aqua CCN Property from the Aqua Development CCNs or assign all rights, title, and interests in and to the Aqua Development CCNs to the District. In consideration for Aqua Development relinquishing its right to provide retail water and wastewater services to the Aqua CCN Property, the Initial Developer, on behalf of the then-proposed District, agreed that Aqua Texas would operate, maintain and manage the water distribution system, wastewater collection and transportation system (including lift stations) and storm water system built to serve the eventual development within the District (as more fully defined below, the "Facilities") for the District in accordance with the terms of the Aqua Operations and Maintenance Agreement.

5. The City and the Initial Developer entered into that certain Utility Services and Development Agreement, dated March 13, 2008 (the "Utility Agreement"), to address, among other matters: (i) the City's annexation of the Initial Property into its corporate limits, (ii) the creation of the District to encompass the Initial Property, (iii) the City's extension of its water distribution and wastewater collection lines to the District's boundary and its provision of sufficient water supply and wastewater treatment plant capacity to serve the District at full development, (iv) the subsequent development and operation of the District, including the construction and use of the Facilities to serve the development occurring within the District, and (v) the fulfillment of certain obligations under the Aqua Operations and Maintenance Agreement.
6. Following the execution of the Utility Agreement, the City (i) annexed the Initial Property into its corporate limits pursuant to that certain Ordinance No. 1847-08 dated May 22, 2008, and (ii) consented to the creation of the District pursuant to that certain Ordinance No. 1848-08 dated May 22, 2008 (the "Consent Ordinance"), copies of which Ordinances are attached hereto as Exhibit "A".
7. Subsequent to the City's annexation of the Initial Property and the City's consent to the creation of the District, on July 3, 2008, HITC submitted a petition to the TCEQ for creation of the District as an "in-city" municipal utility district. The TCEQ approved such petition for the creation of the District pursuant to that certain Order Granting the Petition for Creation of the District and Appointing Temporary Directors dated November 20, 2008, a copy of which is attached hereto as Exhibit "B".
8. Following the TCEQ's creation of the District, an election was held on May 9, 2009, to confirm the creation of the District, among other matters. The election resulted in a majority vote for the creation of the District and such results were canvassed by the Board of Directors of the District on May 14, 2009, pursuant to that certain Order Canvassing Returns and Declaring Results of Confirmation and Directors Election and Bond and Maintenance Tax Election, a copy of which is attached hereto as Exhibit "C".

9. Subsequent to the confirmation of the creation of the District, the Initial Developer assigned its rights, benefits and obligations under the Utility Agreement to the District pursuant to that certain Assignment of Utility Services and Development Agreement between the City, HITC, and the District dated March 30, 2011.
10. Further, following the confirmation of the creation of the District, Hendricks petitioned the District to add an additional 22.52 acres of land located within the corporate limits of the City (the "First Annexation Tract") to the District. The City gave its consent to the District's annexation of the First Annexation Tract pursuant to that Certain Ordinance No. 1976-10 passed on June 10, 2010. The District granted Hendricks' petition and annexed the First Annexation Tract pursuant to that certain Order Adding Land and Redefining the Boundaries of the District, dated February 23, 2012.
11. After the District's annexation of the First Annexation Tract, Aqua Development filed an application with the Public Utility Commission of Texas (the "PUC") to assign the Aqua Development CCNs to Aqua Texas, Inc., a Texas Corporation ("Aqua Texas"), which assignment was completed on March 12, 2012 with the issuance of water CCN No. 13203 and sewer CCN No. 21065 (collectively, the "Aqua Texas CCNs") to Aqua Texas, granting to Aqua Texas the exclusive right to provide retail water and sewer services to the Aqua CCN Property. (Aqua Operations, Aqua Development, and Aqua Texas are sometimes referred to collectively hereinafter in this Agreement as "Aqua.")
12. Following the transfer of the Aqua Texas CCNs to Aqua Texas, the District and the City entered into that certain Supplement to Utility Services and Development Agreement dated November 8, 2012 (the "Supplement"), to, among other matters, confirm that the Utility Agreement was not an "allocation agreement" subject to Section 54.016(f), Texas Water Code, as amended ("Section 54.016(f)"), and memorialize an agreement to introduce and/or support the passage of certain legislation that provides that Section 54.016(f) does not apply to the District.
13. Subsequent to the execution of the Supplement, the 83<sup>rd</sup> Texas Legislature, Regular Session, passed House Bill 1586, adding Chapter 8454 to the Texas Special District Local Laws Code to state that Section 54.016(f) does not apply to the District.
14. After the passage of House Bill 1586, HITC petitioned the District to add an additional 13.90 acres of land located within the corporate limits of the City (the "Second Annexation Tract") to the District. The City gave its consent to the District's annexation of the Second Annexation Tract pursuant to that Certain Ordinance No. 2186-10 passed on March 27, 2014. The District granted HITC's petition and annexed the Second Annexation Tract pursuant to that certain Order Adding Land and Redefining the Boundaries of the District, dated June 19, 2014,

expanding the property located within the District to a total of 329.91 acres (the "Property"), described more particularly on Exhibit "D" attached hereto.

15. After the District's annexation of the Second Annexation Tract, the Initial Developer sold all of its property in the District to D.R. Horton – Texas, Ltd., a Texas limited partnership (the "Developer").
16. Following the Initial Developer's sale of its property in the District to the Developer, the District and Aqua entered into that certain Compromise and Settlement, Mutual Release, and Amendment and Restatement of Operations and Maintenance Agreement, dated effective as of January 1, 2016 (the "Compromise and Settlement Agreement") attached hereto as Exhibit "E", amending and restating the terms of the Aqua Operations and Maintenance Agreement to require: (i) Aqua to cease providing operations maintenance, and management services to the District, (ii) Aqua and the District to release each other from prior claims under the Aqua Operations and Maintenance Agreement, and (iii) Aqua to assign the rights to the Aqua Texas CCNs to the District in consideration for certain compensation described in the Compromise and Settlement Agreement.
17. Subsequent to the execution of the Compromise and Settlement Agreement, Aqua Texas filed an application with the PUC to assign the Aqua Texas CCNs to the District, which assignment was completed on September 29, 2017 with the issuance of water CCN No. 13258 and sewer CCN No. 21104 (collectively, the "MUD CCNs") to the District, granting to the District the exclusive right to provide retail water and sewer services to the Aqua CCN Property. Aqua Texas also decertified certain portions of its CCNs located outside the Property that were rendered unable to be served after the completion of the assignment of the Aqua Texas CCNs to the District.
18. The City and the District now desire to enter into an agreement under the terms of which, among other things: (i) the District will continue to acquire for the benefit of and for ultimate conveyance to the City, the Facilities needed to serve lands being developed within the boundaries of the District; (ii) the City will maintain the City water distribution and wastewater collection lines extended to the District's boundary, as well as the Facilities located within the District's boundaries conveyed to the City by the District; (iii) the City will provide sufficient water supply and wastewater treatment plant capacity to serve the Property at full development, on a time schedule that meets the Developer's needs, at no cost to the District or to the Developer and without imposing any impact fees on the Developer, the District, or any of its customers; (iv) the City will provide water supply and wastewater treatment services to the customers within the District; (v) the District will assign the Compromise and Settlement Agreement to the City; (vi) the District will assign the MUD CCNs to the City; and (vii) in order to enhance the economic feasibility of the District and more equitably distribute among the taxpayers of the City and the District the burden of ad valorem taxes to be levied from time to time by the City and the District, the

City will make annual tax revenue rebate payments to the District in consideration of the District's financing, acquisition, and construction of the Facilities.

19. The City and the District have determined that they are authorized by the Constitution and laws of the State of Texas to enter into this Agreement and have further determined that the terms, provisions, and conditions hereof are mutually fair and advantageous to each.

## **AGREEMENT**

NOW, THEREFORE, and in consideration of the mutual promises, obligations, covenants, and benefits hereinafter set forth, the District and the City contract and agree as follows:

### **ARTICLE I** **DEFINITIONS**

**1.01 Recitals.** The recitals set forth above are declared true and correct and are hereby incorporated as part of this Agreement.

**1.02 Definitions.** Unless the context requires otherwise, and in addition to the terms defined above, the following capitalized terms and phrases used in this Agreement shall have the meanings as follows:

*"Annual Payments"* means the annual payments to be made by the City to the District, as defined in **Sections 8.01 and 8.02** hereof.

*"Approving Bodies"* means the City, the Texas Commission on Environmental Quality, the Attorney General of Texas, the Comptroller of Public Accounts of Texas, the United States Department of Justice and all other federal and state governmental authorities having regulatory jurisdiction and authority over the financing, construction or operation of the Facilities or the subject matter of this Agreement.

*"Aqua"* means collectively Aqua Operations, Aqua Development, and Aqua Texas.

*"Aqua CCN Property"* means the approximately 173.63 acres of the Initial Property that were located within the certificated area of the Aqua Development CCNs.

*"Aqua Development"* means Aqua Development, Inc., a Texas corporation.

*"Aqua Development CCNs"* means water CCN No. 12902 and sewer CCN 20867 as issued by the Texas Natural Resource Conservation Commission on August 7, 2000 to Aqua Development, granting Aqua Development the exclusive right to provide retail water and sewer services to the are covered by such CCNs.

*"Aqua Operations"* means Aqua Operations, Inc., a Delaware corporation, doing business as Aqua Texas, Inc.

*"Aqua Operations and Maintenance Agreement"* means that certain Operations and Maintenance Agreement by and among the Initial Developer, acting on behalf of the then-proposed District, Aqua Development, and Aqua Operations, dated January 18, 2008.

*"Aqua Texas"* means Aqua Texas, Inc., a Texas corporation.

*"Aqua Texas CCNs"* means water CCN No. 13203 and sewer CCN 21065 issued to Aqua Texas by the PUC, granting to Aqua Texas the exclusive right to provide retail water and sewer services to the Aqua CCN Property.

*"Bonds"* means the District's bonds, notes or other evidences of indebtedness issued from time to time for the purposes permitted under **Section 7.02** hereof, whether payable from ad valorem taxes, the proceeds of one or more future bond issues or otherwise, and including any bonds, notes or similar obligations issued to refund such bonds.

*"CCN"* means a Certificate of Convenience and Necessity issued by the Public Utility Commission of Texas or its predecessors, which may relate to water services, sewer services, or both.

*"City"* means the City of Conroe, Texas, a municipal corporation and home-rule city of the State of Texas.

*"City of Conroe Treatment Plant"* means the Wastewater treatment plant owned and operated by the City of Conroe located at 2400 Sgt. Ed Holcombe Blvd.

*"City System"* means the City Wastewater System and the City Water System. The term includes all District Constructed Facilities that have been conveyed to and accepted by the City in accordance with this Agreement, upon such conveyance and acceptance. The term expressly excludes storm water detention ponds, whether or not constructed by District, which detention ponds are not to be conveyed to or accepted by City.

*"City Wastewater System"* means all the wastewater treatment facilities, lines, components, and equipment owned and used by the City to collect, convey, treat, monitor, regulate, and dispose of wastewater.

*"City Water System"* means all the water production wells, pumps, lines, meters, components, facilities, and equipment owned and used by the City to produce, pump, treat, monitor, convey, supply, and distribute water to the public.

*"City WS&D Tax Rate"* means that portion of the City's ad valorem tax rate attributable to the financing of the water, sewer, and drainage facilities as calculated pursuant to Article VIII of the Agreement.

*"Compromise and Settlement Agreement"* means the Compromise and Settlement, Mutual Release, and Amendment and Restatement of Operations and Maintenance Agreement by and among the District, Aqua Operations, Aqua Development, and Aqua Texas, dated effective as of January 1, 2016, attached hereto as **Exhibit "E"**.

*"Consent Ordinance"* means that certain Ordinance No. 1848-08 dated May 22, 2008, attached hereto as **Exhibit "A"**.

*"Developer"* means D.R. Horton – Texas, Ltd., a Texas limited partnership, or its respective successors or assigns.

*"District"* means Montgomery County Municipal Utility District No. 126, a body politic and corporate and a governmental agency of the State of Texas organized under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 Texas Water Code, as amended, and which includes within its boundaries all or any portion of the Property and any land that is annexed into the District with the consent of the City.

*"District Assets"* means (i) all rights, title and interests of the District in and to the Facilities, (ii) any Bonds of the District which are authorized but have not been issued by the District, (iii) all rights and powers of the District under any agreements or commitments with any persons or entities pertaining to the financing, construction or operation of all or any portion of the Facilities and/or the operations of the District, and (iv) all books, records, files, documents, permits, funds, and other materials or property of the District.

*"District Constructed Facilities"* means all Facilities, with the exception of all storm water detention ponds and systems, that the District intends to convey or has conveyed to the City for ownership, operation, and maintenance pursuant to Article IV of this Agreement. The term includes all Existing District Facilities and Future District Facilities.

*"District Obligations"* means (i) all outstanding Bonds of the District, (ii) all other debts, liabilities and obligations of the District to or for the benefit of any persons or entities relating to the financing, construction or operation of all or any portion of the Facilities or the operations of the District, and (iii) all functions performed and services rendered by the District, for and to the owners of property within the District and the customers of the Facilities.

*"District Tax Rate"* means the sum of the District's maintenance and debt service tax rates. In determining the District Tax Rate for any particular year, the parties recognize that the District's maintenance and debt service tax rates may increase or decrease.

*"Engineers"* means Edminster, Hinshaw, Russ & Associates, Inc., consulting engineers, or its replacement, successor or assignee.

*"Engineering Reports"* means and refers to that certain Preliminary Engineering Report prepared by the Engineers relating to the creation of the District and describing the initial scope and extent of the Facilities and any additional engineering reports prepared by the Engineers

from time to time relating to the issuance of Bonds by the District, copies of which shall be on file in the offices of the District.

*"Existing District Constructed Facilities"* means all District Constructed Facilities accepted and owned by the District prior to the Effective Date.

*"Facilities"* means and includes the District System and any storm water collection, detention, and drainage systems constructed or acquired or to be constructed or acquired by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites, and other interests related thereto, all as more fully described in the Engineering Reports.

*"First Annexation Tract"* is defined in the recitals hereto.

*"Future District Constructed Facilities"* means all District Constructed Facilities constructed after the Effective Date that are to be conveyed to City in accordance with this Agreement.

*"Hendricks"* means David B. Hendricks.

*"HTC"* means Houston Intercontinental Trade Center, L.P.

*"Initial Developer"* means David B. Hendricks and Houston Intercontinental Trade Center, L.P.

*"Notice"* is defined in **Section 11.06**.

*"MUD CCNs"* means water CCN No. 13258 and sewer CCN No. 21104 issued to the District by the PUC, granting to the District the exclusive right to provide retail water and sewer services to the Aqua CCN Property.

*"Parties"* means collectively the District and the City.

*"Party"* means the District or the City.

*"Payment Date"* means the date each year on which the Annual Payments are due, as defined in **Section 8.02**.

*"Point(s) of Connection of Wastewater"* means the point or points where the City Wastewater System connects to the District Constructed Facilities, as such point or points exist as of the Effective Date or may be mutually agreed upon by the City and the District after the Effective Date.

*"Point(s) of Connection of Water"* means the point or points where the City Water System connects to District Constructed Facilities, as such point or points exist on the Effective Date or may be mutually agreed upon by the City and the District after the Effective Date.

*"Property"* means all the land described in the attached **Exhibit "D"** and also means and automatically includes any other property annexed into the District after the Effective Date.

*"PUC"* means the Public Utility Commission of Texas and its successors.

*"Second Annexation Tract"* is defined in the recitals hereto.

*"Section 54.016(f)"* means Section 54.016(f), Texas Water Code, as amended.

*"Supplement"* is defined in the recitals hereto.

*"Surcharge"* is defined in **Section 5.04**.

*"TCEQ"* means the Texas Commission on Environmental Quality and its successors.

*"Utility Agreement"* means that certain Utility Services and Development Agreement by and between the City and the Initial Developer, dated March 13, 2008.

*"Wastewater"* means water-carried wastes, exclusive of ground, surface and storm waters, normally discharged from the sanitary conveniences of dwellings, including apartment houses, hotels, office buildings and institutions of a domestic, not industrial nature.

*"Wastewater Services"* means the services provided by the City in receiving, treating, testing, and disposing of Wastewater from customers within the District in accordance with this Agreement.

*"Water"* means potable water that meets federal and state standards for consumption by humans.

*"Water Supply Services"* means the services provided by the City in treating, pumping, transporting, and delivering of Water to customers within the District in accordance with this Agreement.

## **ARTICLE II**

### **DEVELOPMENT OF PROPERTY**

**2.01 Fire Protection Services.** The City agrees that the City shall provide the Property and all persons living therein with the same level of fire protection services as is provided to all other property and persons living within the City.

**2.02 Police Protection Services.** The City agrees that the City shall provide the Property and all persons living therein with the same level of police protection services as is provided to all other property and persons living within the City.

**2.03 Plans and Approvals.** The District agrees to submit, or to cause the Developer to submit, all plans and specifications for streets and other public improvements to the City for review and approval in accordance with the City's applicable codes, regulations, and ordinances prior to commencing construction of any such improvements.

### **ARTICLE III** **DESCRIPTION, DESIGN, FINANCING, AND** **CONSTRUCTION OF THE FACILITIES**

**3.01 Design and Construction of the Facilities.** The Facilities shall be designed and constructed in compliance with all applicable requirements and criteria of the applicable Approving Bodies. The District shall not be required to design and construct the Facilities to requirements more stringent than the City's requirements and criteria applicable to all design and construction within the City's jurisdiction. The District shall design, construct, or extend the Facilities in such phases or stages as the District, in its sole discretion, from time to time may determine to be necessary and economically feasible.

**3.02 Water Distribution and Supply Facilities.** The City shall provide the District with its ultimate requirements for Water supply and distribution capacities as needed and when required by the District, and same shall be provided without capital charges of any kind. The City Water System shall deliver Water to the District Constructed Facilities at the Point(s) of Connection of Water. The City acknowledges its obligation to provide Water Supply Services for the actual requirements of the development within the District's boundaries. The City shall at all times manage the capacities in the City Water System so that capacity to fully serve the development within the District is available at the time any new District Constructed Facilities are to be connected to the City Water System. The City's obligation under this **Section 3.02** shall specifically include the obligation to expand, enlarge, and modify the City Water System, at its sole cost and expense, and to secure all necessary approvals of the Approving Bodies as necessary to have capacity available to serve new improvements within the District, at its sole cost and expense.

**3.03 Title to Water.** Title to all Water delivered to customers within the District shall remain in the City until passing through the customer meter. The City shall be exclusively entitled to all rights of return flow reuse of wastewater discharged into the City Wastewater System.

**3.04 Wastewater Collection and Treatment Plant Facilities.** The City and the District agree that the Property is designated as part of the service area of the City of Conroe Treatment Plant. The City represents that it has sufficient capacity in the City of Conroe Treatment Plant to serve the development of the District as needed and when required by the District and that it shall provide Wastewater Services to the customers within the District when needed. In the event that the City of Conroe Treatment Plant does not have sufficient capacity to

serve the development in the District as planned, the City agrees to make any necessary improvements to the City of Conroe Treatment Plant, at no cost to the District, in order to serve the development in the District. The District Constructed Facilities shall transport Wastewater from the customers located within the District to the City Wastewater System at the existing Point(s) of Connection of Wastewater located along League Line Road and Longmire Cove.

**3.05 Planning.** The District acknowledges and agrees that: (i) all development within the District must be approved by the City's Planning Commission, and (ii) the City will not accept the conveyance of any District Constructed Facilities which do not meet the requirements of Section 3.06(2) of this Agreement.

**3.06 Connections to the City System.** (a) Notwithstanding anything to the contrary in this Agreement, no District Constructed Facilities shall be connected to the City System until:

(1) the City has inspected and approved the Point(s) of Connection; and

(2) all buildings or structures served by such District Constructed Facilities shall be located entirely within the boundaries of a lot or parcel shown in a plan, plat or replat filed with and finally approved by the City Planning Commission of the City and duly recorded in the official records of the county where the property is located (provided this limitation shall not apply if no plan, plat or replat is required by applicable State statutes, City ordinances or City Planning Commission regulations).

(b) All irrigation systems shall be maintained by parties other than the City and no irrigation systems shall be connected to the City System without being metered and installed with backflow prevention in accordance with the applicable plumbing code standards. Prior to the transfer of District Constructed Facilities, the District shall identify all irrigation systems connected to the Facilities other than privately owned and operated irrigation systems wholly located on residential lots.

**3.07 Letter of Assurance and Issuance of Assignments of Capacity by the District.** The City agrees that, from time to time, the City shall, upon reasonable request, issue a letter of assurance to purchasers or prospective purchasers of land within the District confirming water and wastewater capacity for such property, based upon the standard City criteria published by the City regarding the calculation of water and wastewater requirements for various types of improvements.

#### **ARTICLE IV OWNERSHIP, OPERATION, AND MAINTENANCE OF THE DISTRICT CONSTRUCTED FACILITIES**

**4.01 Conveyance of the District Constructed Facilities.** On or before the Effective Date, the District shall convey the Existing District Constructed Facilities to the City using a Utility Conveyance and Security Agreement in substantially the form attached hereto as **Exhibit "F"**, reserving a security interest in such Existing District Constructed Facilities in favor of the District for the purpose of securing the performance of the City under this Agreement. As

construction of the Future District Constructed Facilities is completed in accordance with the terms and conditions of this Agreement, the District shall convey the Future District Constructed Facilities to the City using a Utility Conveyance and Security Agreement in substantially the form attached hereto as **Exhibit "F"**, reserving a security interest in such Future District Constructed Facilities in favor of the District for the purpose of securing the performance of the City under this Agreement. At such time as the Bonds issued to acquire and construct the District Constructed Facilities have been discharged, the District shall execute a release of the security interest on such District Constructed Facilities and the City shall own such District Constructed Facilities free and clear of any security interest.

**4.02 Acceptance of the District Constructed Facilities.** As construction of each phase of the Future District Constructed Facilities is completed, representatives of the City shall inspect the same and, if the City finds that such Future District Constructed Facilities have been completed in accordance with the final plans and specifications for same, the City will accept the conveyance of such Future District Constructed Facilities by approving, executing, and recording in the official records of Montgomery County, Texas a Utility Conveyance and Security Agreement in substantially the form attached hereto as **Exhibit "F"**, as such Utility Conveyance and Security Agreement has been approved and executed by the District pursuant to Section 4.01 of this Agreement, and the District Constructed Facilities so conveyed shall be operated, maintained, repaired, and/or replaced by the City at its sole cost and expense as provided in this Agreement. In the event that the District Constructed Facilities have not been completed in accordance with the final plans and specifications, the City will immediately advise the District in what manner said District Constructed Facilities do not comply, and the District shall immediately correct same; whereupon the City shall again inspect the District Constructed Facilities and accept same if the defects have been corrected.

**4.03 Operation of the District Constructed Facilities by the City.** Beginning on the Effective Date, the City will operate the District Constructed Facilities and provide access to and services, including Water Supply Services and Wastewater Services, from same to all users within the District without discrimination. Upon acceptance of the District Constructed Facilities by the City, the City shall maintain same, or cause same to be maintained, in good condition and working order and will operate same, or cause same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles. With regard to the District Constructed Facilities, the City shall comply with all terms and conditions of this Agreement and with all applicable federal, state, and local laws and regulations.

(a) The City shall maintain all customer information and records necessary to provide monthly billings to customers served by the District Constructed Facilities accepted and operated by the City. The City shall coordinate with the District's consultants, such as attorneys, engineers, auditors, tax assessors, and financial advisors, as necessary to maintain efficient operation of the District Constructed Facilities. The City shall promptly respond to inquiries or correspondence from governmental or regulatory authorities and the District' directors, customers, or consultants.

(b) Upon written request from the District, the City shall provide within thirty (30) days a written report to the District indicating the total number of active and inactive service connections within the District in order to satisfy TCEQ requirements in connection with the issuance of Bonds.

**4.04 Rates and Meters.** The City shall bill and collect from customers of the District Constructed Facilities and shall from time to time fix such rates and charges for such customers of the District Constructed Facilities as the City, in its sole discretion, determines are necessary; provided, however, that the rates and charges for services afforded by the District Constructed Facilities will be equal and uniform to those charged other similar classifications of users in non-municipal utility district areas of the City, except as specifically provided in **Section 5.04** of this Agreement. All revenues from the District Constructed Facilities shall belong exclusively to the City. The City shall be responsible for providing and installing any necessary meters to serve individual customers. The District shall assign all deposits on hand from and all receivables due from the District's customers to the City using such documentation as determined to be mutually agreeable to the Parties.

**4.05 Repair of the District Constructed Facilities.** After its acceptance of the District Constructed Facilities, the City shall provide all personnel and equipment necessary to perform repairs on, and shall bear sole cost responsibility for repair of, those District Constructed Facilities, including, but not limited to, service line leaks, leaks at water meters, water main breaks, repairs to valves and fire hydrants, manhole repairs, and sewer line repair and cleaning, as needed. The cost of all materials and supplies used to operate, maintain, repair or replace the District Constructed Facilities shall be borne solely by the City.

**4.06 Connection Charges.** Notwithstanding any City ordinance to the contrary, the City may impose a charge for connection to the District Constructed Facilities at a rate to be determined from time to time by the City, provided the charge is equal to the sums charged other City users for comparable connections, and the connection charges shall belong exclusively to the City.

**4.07 Condemnation of Property Outside District Boundaries.** The District shall not be authorized to exercise the power of eminent domain to acquire property that is located outside the boundaries of the District without the approval of the City.

## **ARTICLE V**

### **ASSIGNMENT OF COMPROMISE AND SETTLEMENT AGREEMENT**

**5.01 Assignment to the City.** The District, as of the Effective Date, assigns, transfers, conveys and delivers unto the City, and to the successors and assigns of the City, all of the District's rights, title, obligations, and interest in, to, and under the Compromise and Settlement Agreement.

**5.02 Assumption by the City.** The City, as of the Effective Date, accepts the assignment of the Compromise and Settlement Agreement as provided for in this Agreement,

and assumes all of the liabilities and agrees to perform and discharge all duties and obligations to be performed and/or discharged by the District under the Compromise and Settlement Agreement, including specifically payment of the compensation required under Section 15 of the Compromise and Settlement Agreement (the "Compensation"). The City, as of the Effective Date, agrees to be bound by the terms of the Compromise and Settlement Agreement.

**5.03 Notice of Assignment.** The District hereby certifies, represents, and warrants that it has provided the written notice required to be given to Aqua pursuant to Section 22 of the Compromise and Settlement Agreement within the time required by such section and that no other action is required to make the assignment of the Compromise and Settlement Agreement from the District to the City effective.

**5.04 Payment of Compensation; Surcharge.** The District and the City acknowledge and agree that, in order to provide for payment of the Compensation, the City may impose a surcharge on customers within the District throughout the term of the Compromise and Settlement Agreement (the "Surcharge"). The Surcharge may not exceed the amount that the City in its reasonable discretion determines is necessary to pay the Compensation. **5.05 Notice to Customers.** The District shall provide written notice to all customers of the District existing prior to the Effective Date that, as of the Effective Date: (i) the City will provide Water Supply Services and Wastewater Services to all customers within the District, and (ii) the City may charge such customers the Surcharge. Further, the District shall include in its form of Notice to Purchasers required to be furnished by a seller to a purchaser of real property located within the District, to the extent allowed by Texas law, notice that: (i) the City is the provider of Water Supply Services and Wastewater Services within the District, and (ii) the City may charge the Surcharge to City customers within the District.

## **ARTICLE VI**

### **ASSIGNMENT OF MUD CCNS**

**6.01 Assignment to the City.** In consideration of the City's agreement to pay the Compensation to Aqua, and upon the City's request, the District agrees to complete the assignment to the City of all of the District's rights, title, and interest in and to the MUD CCNs relative to the Aqua CCN Property (the "CCN Assignment").

**6.02 CCN Assignment Process.** The City shall take any and all action required, at its sole cost and expense and at no expense to the District, to complete the CCN Assignment as soon as reasonably possible. The City shall properly file the application for the CCN Assignment (the "Application") within six (6) months of the Effective Date, and shall diligently monitor and pursue the approval of the Application at the earliest possible date. The City shall respond timely to any and all requests from the PUC relative to the Application and the CCN Assignment, and shall take any and all actions required of it to ensure the timely and successful approval of the Application and the CCN Assignment by the PUC.

**6.03 District Obligations.** In order to facilitate completion of the CCN Assignment, the District agrees to provide any existing records or documents reasonably available to the

District which may be reasonably required by the City or the PUC relative to the Application for the CCN Assignment.

## **ARTICLE VII**

### **FINANCING OF FACILITIES**

#### **7.01 Authority of District to Issue Bonds.**

(a) Bonds. The District shall have the authority to issue, sell, and deliver Bonds from time to time, as deemed necessary and appropriate by the Board of Directors of the District, for the purposes, in such form and manner and as permitted or provided by federal law, the general laws of the State of Texas and the Consent Ordinance. The District shall not be authorized to sell Bonds until it has provided the City with, as applicable, a certified copy of the TCEQ order approving the Bond issue, a copy of the Preliminary Official Statement, and a draft of the Bond Order.

(b) Tax Levy. In order to pay for the day-to-day operations of the District, the District may levy, assess, and collect an operation and maintenance tax, provided that the District's combined debt service and operation and maintenance tax in a given year does not exceed \$1.10 per \$100 in valuation without the written consent of the City.

Each TCEQ order approving a Bond Issue must contain a finding, made in accordance with the Commission's then-existing rules, that it is feasible to sell the Bonds and maintain a projected District Tax Rate (including the District's operation and maintenance tax) that will not exceed \$1.10 per \$100 in valuation. The foregoing shall not be construed as a limitation on the District's authority to levy an unlimited tax rate, it being understood and acknowledged that the District's bonds shall be payable from and secured by a pledge of the proceeds of an ad valorem tax, without legal limit as to rate or amount. Further, in the event that the District determines that it is necessary to establish a combined debt service and operation and maintenance tax in excess of \$1.10 per \$100 in valuation in order to meet the District's financial obligations, the City agrees to consider in good faith an amendment of this Agreement to allow the District to establish a higher rate, based upon the specific facts and circumstances presented to the City by the District at such time.

**7.02 Purpose for Bonds and Use of Bond Proceeds.** The District will issue Bonds only for the purpose of purchasing and constructing or otherwise acquiring the Facilities or parts of the Facilities, parks and recreational facilities, and eligible roads and appurtenances related thereto, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefore within or without the boundaries of the District, and providing for developer interest and for any necessary capitalized interest and costs of issuance.

**7.03 Bond Provisions.** The District's Bonds shall expressly provide that the District reserves the right to redeem the Bonds on any interest-payment date not later than the fifteenth anniversary of the date of issuance without premium and will be sold only after the taking of

public bid therefore. None of such Bonds, other than refunding bonds, will be sold for less than 95% of par; provided, however, that the net effective interest rate on Bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, will not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the Bonds will be received not more than forty-five days after notice of sale of the Bonds is given. The Bonds shall not have a maturity of more than thirty (30) years and shall not provide for more than eighteen months of capitalized interest, unless required by the rules of the TCEQ. The District shall not issue Bonds more than thirty (30) years after the date of the TCEQ order approving its creation (November 20, 2008), without the City's prior written consent.

**7.04 Bonds as Obligation of District.** Unless and until the City shall dissolve the District and assume the properties, assets, obligations, and liabilities of the District, the Bonds of the District, as to both principal and interest, shall be and remain obligations solely of the District and shall never be deemed or construed to be obligations or indebtedness of the City; provided, however, that nothing herein shall limit or restrict the District's ability to pledge to or assign all or any portion of the Annual Payments to be made by the City to the District as provided herein, to the payment of the principal of, or redemption premium, if any, or interest on the Bonds or other District Obligations relating to the financing, acquisition or use of the Facilities. The Bonds shall not contain any pledge of the revenues from the operation of the District Constructed Facilities other than the Annual Payments from the City.

**7.05 Construction by Third Parties.** The District has, and may, from time to time, continue to enter into agreements, (each a "Utility Development Agreement") with landowners or developers of property located within or in the vicinity of the District whereby such landowners or developers will undertake, on behalf of the District, to pre-finance and pre-construct, in one or more phases, all or any portion of the Facilities. Under the terms of each Utility Development Agreement, the landowners or developers will be obligated to finance and construct the Facilities in the manner which would be required by law if such work were being performed by the District. Each Utility Development Agreement will provide for the purchase of the Facilities from the landowners or developers using the proceeds of one or more issues of Bonds, as otherwise permitted by law and the applicable rules, regulations, and guidelines of the applicable Approving Bodies.

**7.06 Bond Application Report; Capacity Allocation Letters.** The City acknowledges and agrees that the District will seek approval from the TCEQ to reimburse the Developer for funds advanced to the District or other goods and services provided to the District in connection with the design permitting, construction, and financing of certain of the Facilities. In that regard, the City agrees to provide reasonable assistance in making documents available to the District for the preparation of bond application reports to the TCEQ requesting approval of such reimbursement. The City agrees to provide written assurance to the District of available Water Supply and Wastewater Services capacities allocated and provided by the City to the District in accordance with this Agreement in connection with bond application reports or other requests from the TCEQ or other regulatory bodies with jurisdiction.

**ARTICLE VIII**  
**ANNUAL PAYMENTS AND DISTRICT TAXES**

**8.01 Calculation of Annual Payments.** In consideration of the development of the land within the District and the related increase in the taxable value of such land to the City through the acquisition and construction of the Facilities by the District and to enhance the economic feasibility of the District and more equitably distribute among the taxpayers of the City and the District the burden of ad valorem taxes to be levied from time to time by the City and the District, the City agrees to collect and pay to the District a portion of the ad valorem taxes levied by the City in future years on the land and improvements within the District (the "Annual Payment"). The Annual Payment shall be an amount resulting from the following formula:

$$\text{City WS\&D Tax Rate} \times \text{District Taxable Assessed Valuation}/100$$

The Parties recognize that the City WS&D Tax Rate may increase or decrease over time. As such, the City shall annually reevaluate and determine the City WS&D Tax Rate for the purposes of this Agreement. The Parties shall use the City's most recent comprehensive Annual Financial Report and the District's most recent certified tax roll from the Montgomery County Appraisal District to determine the City WS&D Tax Rate. All Annual Payments received by the District from the City shall be deposited by the District into the District's debt service fund, to be used, along with any interest thereon, solely for the payment of the District's bonded indebtedness relating to the financing, construction, and acquisition of all or any portion of the Facilities.

**8.02 Payment of Annual Payment.** The Annual Payment shall be payable on March 1 of each year (the "Payment Date") until the obligation of the City to make Annual Payments to the District terminates pursuant to **Section 8.03** hereof, with each such Annual Payment being applicable to the calendar year preceding the calendar year of each such March 1 (e.g., the Annual Payment for 2018 will be due March 1, 2019. Each Annual Payment that is not paid on or before the Payment Date shall be delinquent and shall incur interest at the rate of one percent (1%) of the amount of the Annual Payment per month, for each month or portion thereof during which the Annual Payment remains unpaid.

**8.03 Supplemental Tax Rolls; Correction Tax Rolls; Adjustment to Annual Payment; Termination of Obligation to Make Annual Payment.** The parties recognize and acknowledge that, from time to time, the Montgomery County Appraisal District may submit to the District one or more Supplemental Tax Rolls and/or Correction Tax Rolls and that each such Supplemental Tax Roll and/or Correction Tax Roll may affect the total value of taxable properties within the District for a particular year and therefore the Annual Payment due and payable by the City for such year. The District agrees that promptly upon receiving a Supplemental Tax Roll and/or Correction Tax Roll, the District shall deliver such Supplemental Tax Roll and/or Correction Tax Roll to the City. Promptly upon receiving a Supplemental Tax Roll and/or Correction Tax Roll from the District, the City shall recalculate the amount of such recalculated Annual Payment. Within forty-five (45) days from the date on which the District received notice of a recalculated Annual Payment, the City shall pay to the District the amount, if any, by which the recalculated Annual Payment exceeds the amount of the Annual Payment

previously paid by the City to the District for the year in question, or the District shall pay to the City the amount, if any, by which the recalculated Annual Payment is less than the amount of the Annual Payment previously paid; provided, however, that if such amount in either instance is less than \$1,000.00, rather than payment within such 45 days, the next Annual Payment shall be adjusted accordingly. The obligation of the City to make Annual Payments to the District shall terminate on (i) the date when all of the District Obligations, including all Bonds of the District, have been fully paid and discharged as to principal, redemption premium, if any, and interest, or (ii) the termination of the Agreement in accordance with **Section 11.15** hereof, whichever occurs first. Nothing herein shall be deemed or construed to require that the City shall be or become liable for any debt or other obligations of the District including, without limitation, the payment of principal, redemption premium, if any, or interest on any Bonds until such time as the City dissolves the District and acquires the District Assets and assumes the District Obligations as provided by law and Article IX below.

**8.04 Access to Records for Verifying Calculation of Annual Payments.** The City shall: (i) maintain proper books, records and accounts of all ad valorem taxes levied by the City from time to time in the City's Department of Finance and Administration, (ii) provide the District an accounting together with each Annual Payment, and (iii) afford the District or its designated representatives reasonable access to the City's applicable books, records, and accounts for purposes of verifying the amounts of each Annual Payment or recalculated Annual Payment which is or becomes due and payable by the City hereunder. The District shall maintain proper books, records, and accounts of all Bonds issued by the District and its debt service requirements.

**8.05 District Taxes.** The District is authorized to assess, levy, and collect ad valorem taxes upon all taxable properties within the District to provide for (i) the payment in full of the District Obligations, including principal, redemption premium, if any, or interest on the District Obligations and to establish and maintain any interest and sinking fund, debt service fund, or reserve fund and (ii) for maintenance purposes, all in accordance with applicable law. The parties agree that nothing herein shall be deemed or construed to prohibit, limit, restrict, or otherwise inhibit the District's authority to levy ad valorem taxes or issue Bonds or District Obligations as the Board of Directors of the District from time to time in its sole discretion may determine to be necessary. The City and the District recognize and agree that all ad valorem tax receipts and revenues collected by the District, together with all Annual Payments, shall become the property of the District and may be applied by the District to the payment of all or any portion of all proper debts, obligations, costs, and expenses of the District and may be pledged or assigned to the payment of all or any designated portion of the principal or redemption premium, if any, or interest on the District Obligations or otherwise in accordance with applicable law. Each Party agrees to notify the other Party as soon as is reasonably possible in the event it is ever made a party to or initiates a lawsuit for unpaid taxes.

**8.06 Sale or Encumbrance of Facilities.** It is acknowledged that the District may not dispose of or discontinue any portion of the District Constructed Facilities without the City's prior written consent.

**ARTICLE IX**  
**DISSOLUTION OF THE DISTRICT**

**9.01 Dissolution of District Prior to Retirement of Bonded Indebtedness.** The City and the District recognize that, as provided by the laws of the State of Texas, the City has the right at any time to abolish and dissolve the District and to acquire the District Assets and assume the District Obligations. Notwithstanding the foregoing, the City agrees that it will not dissolve or attempt to dissolve the District, in whole or in part, prior to November 1, 2056 unless the following conditions have been met:

1. At least 90% of the Facilities have been developed; and
2. The Developer(s) developing the Facilities has/have received full payment by the District to the maximum extent permitted by the rules of the TCEQ or the City assumes any obligations for such payment by the District under such rules.

Upon dissolution of the District, the City shall acquire the District Assets and shall assume the District Obligations. If requested by the District, the City shall afford the District the opportunity to discharge any remaining District Obligations pursuant to any existing Utility Development Agreements of the District, by either (i) authorizing the District to sell its Bonds before or during a transition period prior to the effective date of dissolution as established by the City, or (ii) pursuant to Local Government Code Section 43.080, as amended, issuing and selling bonds of the City in at least the amount necessary to discharge the District Obligations, including those under any Utility Development Agreements.

**9.02 Transition upon Dissolution.** In the event all required findings and procedures for the dissolution of the District have been duly, properly, and finally made and satisfied by the City, and unless otherwise mutually agreed by the City and the District pursuant to existing law, the District agrees that its officers, agents, and representatives shall be directed to cooperate with the City in any and all respects reasonably necessary to facilitate the dissolution of the District and the transfer of the District Assets to, and the assumption of the District Obligations by, the City.

**ARTICLE X**  
**REMEDIES IN EVENT OF DEFAULT**

The Parties expressly recognize and acknowledge that a breach of this Agreement by either Party may cause damage to the non-breaching Party for which there will not be an adequate remedy at law. Accordingly, in addition to all the rights and remedies provided by the laws of the State of Texas, in the event of a breach hereof by either Party, the other Party shall be entitled, but shall not be limited, to the equitable remedy of specific performance or a writ of mandamus to compel any necessary action by the breaching Party. In the event that a Party seeks a remedy as provided in this Article or any monetary damages as otherwise provided in this Agreement, the breaching Party shall be required to pay for the non-breaching Party's attorney's fees and court costs.

**ARTICLE XI**  
**MISCELLANEOUS PROVISIONS**

**11.01 Permits, Fees, Inspections.** The District understands and agrees that all City ordinances and codes, including applicable permits, fees, and inspections, shall be of full force and effect within its boundaries the same as to the other areas within the City's corporate limits, except to the extent inconsistent with the terms of this Agreement.

**11.02 Force Majeure.** If either Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Agreement, then the obligations of such Party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other Party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a Party to this Agreement, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, 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 water and sewer systems hereunder, and any other incapacities of any Party, whether similar to those enumerated or otherwise, which are not within the control of the Party claiming such inability, which such Party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party when such settlement is unfavorable to it in the judgment of the Party experiencing such difficulty.

**11.03 Applicable Law.** This Agreement shall be governed by the laws of the State of Texas without regard to conflict of law principles and no lawsuit shall be prosecuted on this Agreement except in a court of competent jurisdiction located in Montgomery County.

**11.04 No Allocation Agreement.** The Parties acknowledge and agree that: (i) this Agreement is not an "allocation agreement" as such term is defined in Section 54.016(f), and (ii) pursuant to Chapter 8454 of the Texas Special District Local Laws Code, Section 54.016(f) is not applicable to the District. The Parties hereby agree to forever waive any and all rights they may now or in the future have arising under or out of Section 54.016(f) to contest the levy of the ad valorem tax rates imposed by either the City or the District.

Notwithstanding the contrary intent of the Parties, if there is a determination that this Agreement does constitute an "allocation agreement" within the meaning of Section 54.016(f),

then this Agreement shall automatically terminate and the Parties shall enter into such agreement(s) as may be necessary to implement the intent of this Agreement as nearly possible without creation of an "allocation agreement" as such term is defined in Section 54.016(f). Each Party agrees to cooperate with the other to implement the intent of this Section 11.04.

**11.05 Approvals and Consents.** Approvals or consents required or permitted to be given under this Agreement shall be evidenced by an ordinance, resolution, or order adopted by the governing body of the appropriate Party or by a certificate executed by a person, firm, or entity previously authorized to give such approval or consent on behalf of the Party. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

**11.06 Address and Notice.** The Parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications ("Notice") required to be given by one Party to another by this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below for such Party: (a) by delivering the same in person; (b) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified; (c) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing "next day delivery," addressed to the Party to be notified; or (d) by sending the same by electronic mail or facsimile with confirming copy sent by mail. Notice deposited in the United States Mail in the manner herein above described shall be deemed effective from and after three (3) days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

City: City of Conroe  
P.O. Box 3066  
Conroe, Texas 77305-3066  
Attn: City Administrator  
Electronic mail: [pvirgadamo@cityofconroe.org](mailto:pvirgadamo@cityofconroe.org)  
Facsimile: (936) 522-3009

District: Montgomery County Municipal Utility District No. 126  
c/o Schwartz, Page & Harding, LLP  
1300 Post Oak Boulevard, Suite 1400  
Houston, Texas 77056  
Attn: Abraham I. Rubinsky  
Electronic mail: [arubinsky@sphllp.com](mailto:arubinsky@sphllp.com)  
Facsimile: (713) 623-6143

The Parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least ten (10) days written notice to the other Parties. If any date or any

period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday, or legal holiday.

**11.07 Assignability.** This Agreement shall not be assignable by either Party.

**11.08 No Additional Waiver Implied.** The failure of either Party to insist upon performance of any provisions of this Agreement shall not be construed as a waiver of the future performance of such provision by the other Party.

**11.09 Reservation of Rights.** All rights, powers, privileges, and authority of the Parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the Parties.

**11.10 Parties in Interest.** This Agreement shall be for the sole and exclusive benefit of the Parties and shall not be construed to confer any rights upon any third parties.

**11.11 Merger.** This Agreement amends and restates in its entirety the Utility Agreement as of the Effective Date and there are no representations, warranties, or agreements between the Parties covering the subject matter of this Agreement other than the Consent Ordinance. If any provisions of the Consent Ordinance appear to be inconsistent or in conflict with the provisions of this Agreement, then the provisions contained in this Agreement shall be interpreted in a way which is consistent with the Consent Ordinance.

**11.12 Captions.** The captions of each section of this Agreement are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the Parties or any provisions hereof, or in ascertaining the intent of either Party, with respect to the provisions hereof.

**11.13 Interpretations.** This Agreement and the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement.

**11.14 Severability.** If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected.

**11.15 Term and Effect.** This Agreement shall remain in effect until the earlier to occur of (i) the dissolution of the District by the City or (ii) the final maturity date of the last series of Bonds issued by the District pursuant to the terms and conditions of Section 7.03 of this Agreement.

**11.16 Time.** Time is of the essence in all things pertaining to the performance of this Agreement.

**11.17 Further Documents.** The Parties agree that at any time after execution of this Agreement, they will, upon request of the other Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement.


**11.18 Incorporation of Exhibits and Other Documents by Reference.** All Exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

**11.19 Authority for Execution.** The City hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City charter and City ordinances. The District hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the Constitution and laws of the State of Texas.

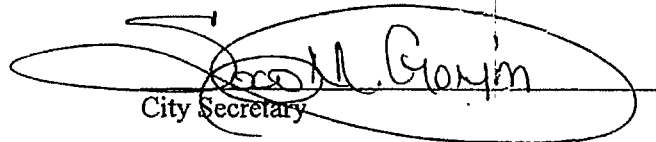
[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the City has executed this Agreement as of the 28<sup>th</sup> day of August, 2019, to be effective as of the Effective Date.

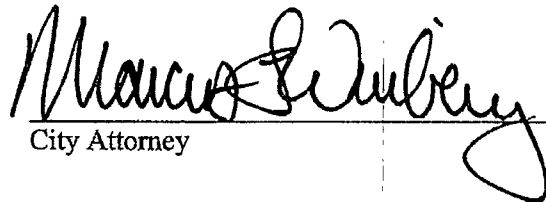
CITY OF CONROE, TEXAS

  
\_\_\_\_\_  
Mayor

ATTEST/SEAL:

  
\_\_\_\_\_  
City Secretary

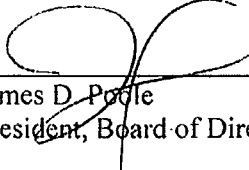
APPROVED AS TO FROM:

  
\_\_\_\_\_  
City Attorney

IN WITNESS WHEREOF, the District has executed this Agreement as of the 18<sup>th</sup> day of July, 2019, to be effective as of the Effective Date.

MONTGOMERY COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 126

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

  
James D. Poole  
President, Board of Directors

**EXHIBIT "A"**  
**CONSENT ORDINANCE**

# Exhibit A

## CERTIFICATE FOR ORDINANCE

### I.

On the 22 day of May, 2008, the City Council of the City of Conroe, Texas, consisting of the following qualified members, to-wit: Webb K. Melder, Mayor; Council Members Jerry Streater, Pat George and Toby Powell, did convene in public session in the Council Chambers of the City Hall at 300 West Davis in Conroe, Texas. The roll being first called, a quorum was established, all members being present except the following, to-wit: Jay Ross Martin and Jim Gentry. The Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

### II.

WHEREUPON, AMONG OTHER BUSINESS transacted, the Council considered adoption of the following written Ordinance, to-wit:

#### ORDINANCE NO. 1847-08


AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS, EXTENDING THE BOUNDARIES OF THE CITY OF CONROE, TEXAS, BY ANNEXATION OF CERTAIN HEREINAFTER DESCRIBED ADJACENT AND CONTIGUOUS TERRITORY; APPROVING A SERVICE PLAN FOR SUCH TERRITORY; MAKING FINDINGS INCIDENT TO SUCH ANNEXATION; PROVIDING FOR EFFECTIVE DATE AND ORDAINING OTHER RELATED MATTERS

### III.

Upon motion of Council Member Streater, seconded by Council Member Powell, all members present voted for adoption of the Ordinance, except the following: N/A. A majority of those Council Members present having voted for adoption, the presiding officer declared the Ordinance passed and adopted.

A true, full and correct copy of the Ordinance adopted at the Meeting is attached to and follows this Certificate.

SIGNED AND SEALED this 22 day of May, 2008.

  
Soco M. Gorjon, Assistant City Secretary

ORDINANCE NO. 1847-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS, EXTENDING THE BOUNDARIES OF THE CITY OF CONROE, TEXAS, BY ANNEXATION OF CERTAIN HERINAFTER DESCRIBED ADJACENT AND CONTIGUOUS TERRITORY; APPROVING A SERVICE PLAN FOR SUCH TERRITORY; MAKING FINDINGS INCIDENT TO SUCH ANNEXATION; PROVIDING FOR EFFECTIVE DATE AND ORDAINING OTHER RELATED MATTERS.

\* \* \* \* \*

WHEREAS, the territory described in Exhibit A to this ordinance is adjacent and contiguous to the existing boundaries of the City of Conroe, Texas and is wholly located within the extraterritorial jurisdiction of the City; and

WHEREAS, the owners of the real property have petitioned and requested its annexation to the City; and

WHEREAS, prior to the institution of annexation proceedings the City Council did conduct two separate public hearings on the proposed annexation of the territory described in Exhibit A, the first such public hearing having occurred on April 23, 2008, and the second on April 24, 2008, both such public hearing dates being within the period on or after the 40<sup>th</sup> day but before the 20<sup>th</sup> day prior to the institution of annexation proceedings; and

WHEREAS, notice of the public hearings was published in the Courier, a newspaper of general circulation within the City of Conroe, Montgomery County, Texas, on April 6, 2008; and

WHEREAS, notice of the public hearings was posted on the City of Conroe website on April 6, 2008 and remained continually posted on such website through April 24, 2008; and

WHEREAS, a proposed annexation service plan for the territory was prepared and filed with the City Secretary prior to the publication of the notice of public hearings and has since remained continuously on file with the City Secretary and has been available for public inspection during regular business hours at all times following the publication of the notice of public hearings; and

WHEREAS, annexation of the territory described in Exhibit A is authorized by Sec. 1.04 of the Home Rule Charter of the City of Conroe;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS:

Section 1. That the recitals set forth in the preamble to this ordinance are hereby adopted as findings of the City Council.

Section 2. That the territory more particularly described in Exhibit A attached hereto, which description is incorporated herein by reference, is hereby annexed to the City of Conroe, Texas and the boundaries of the municipality are hereby extended to incorporate such territory within the City for general municipal purposes.

Section 3. The service plan for such territory attached hereto as Exhibit B and incorporated herein by reference is hereby approved. Full municipal services shall be provided in the annexed territory in conformity with such service plan.


Section 4. The annexed territory is included within Montgomery County Emergency Services District No. 1. The City Council finds that it is in the public interest to require that the territory be disannexed and removed from the territory of the Emergency Services District and orders the disannexation of the territory from the District on or before December 31, 2008.

Section 5. This ordinance shall not repeal, impair, modify, or in anywise affect any other ordinance annexing territory to the City of Conroe, whether finally passed or otherwise. The procedure initiated hereby and the annexation proceedings instituted hereunder shall be independent of any other proposed and pending annexation of such territory, and such other proceedings shall not be affected hereby.

Section 6. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application thereof ineffective or inapplicable as to any territory, such illegality, unconstitutionality, invalidity, or ineffectiveness of such section or part shall in no wise affect, impair, or invalidate the remaining portion or portions thereof, but as to such remaining portion or portions, the same shall be and remain in full force and effect; and should this ordinance for any reason be ineffective as to any part of the area hereby annexed to the City of Conroe, such ineffectiveness of this ordinance as to any such part or parts of any such area shall not affect the effectiveness of this ordinance as to all of the remainder of such area, and the City Council hereby declares it to be its purpose to annex to the City of Conroe every part of the areas described in Exhibit "A", of this ordinance, regardless of whether any other part of such described area is hereby effectively annexed to the City. Provided, further, that if there is included in the description of territory set out in Exhibit "A", of this ordinance to be hereby annexed to the City of Conroe any lands or area which are presently part of and included in the limits of any other city, town, or village, or which are not within the jurisdiction or power of the City of Conroe to annex, the same is hereby excluded and excepted from the territory to be hereby annexed as fully as if such excluded and excepted areas were expressly described herein.


Section 7. This ordinance shall be effective immediately upon adoption.

PASSED AND APPROVED this the 22 day of May, 2007.

  
WEBB K. MOLDER, Mayor

APPROVED AS TO FORM:

ATTEST:

  
MARCUS L. WINBERRY, City Attorney


  
Soco M. Gorjon, Assistant City Secretary

EXHIBIT A

Metes & Bounds Description  
Annexation Tract 2008-01

BEING 296.51 ACRES OF LAND LOCATED IN THE A-7 ELIJAH  
COLLARD SURVEY, AND THE A-190 JAMES EDWARD SURVEY IN  
MONTGOMERY COUNTY, TEXAS AND MORE PARTICULARLY  
DESCRIBED AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod for corner on the north line of Longmire Way (60-foot right-of-way) recorded under Montgomery County Clerk's File No. 9536930 of the Official Public Records of Real Property, being the southeast corner of Reserve "C" of the Replat of Longmire on Lake Conroe Sections 1 and 2, plat of which is recorded in Cabinet I, Sheets 161 thru 163 of the Montgomery County Map Records;

- (1) (1, E.H.R.&A. INC.) THENCE: N 12°45'59" E (Call North 12°45'59" East, 1255.98 feet), along the east line of said Replat of Longmire on Lake Conroe Sections 1 and 2, at 912.84 feet passing the northeast corner of said Replat of Longmire on Lake Conroe Sections 1 and 2 and the southeast corner of Longmire on Lake Conroe Section 3, plat of which is recorded in Cabinet I, Sheets 59 thru 65 of the Montgomery County map Records, and continuing in all 1255.98 feet to a 5/8-inch iron rod for the northeast corner of said Longmire on Lake Conroe Section 3;
- (2) (2, E.H.R.&A. INC.) THENCE: N 77°12'16" W (Call North 77°12'16" West, 1616.63 feet), along the north line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" being an interior corner of said Longmire on Lake Conroe Section 3;
- (3) (3, E.H.R.&A. INC.) THENCE: N 11°56'28" E (Call North 11°56'28" East, 565.74 feet), 565.74 feet along an interior line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod for the northeast corner of Reserve "D" of said Longmire on Lake Conroe Section 3, also being on the 201-foot contour line;

THENCE: along the 201-foot contour line, the following fifty (50) courses and distances;

- (4) (4, E.H.R.&A. INC.) THENCE: S 87°23'59" E (Call South 87°23'59" East, 33.75 feet), at 33.75 feet to a point;
- (5) (5, E.H.R.&A. INC.) THENCE: N 60°22'00" E (Call North 60°22'00" East, 14.06 feet), at 14.06 feet to a point;
- (6) (6, E.H.R.&A. INC.) THENCE: S 88°53'51" E (Call South 88°53'51" East, 14.40 feet), at 14.40 feet to a point;

- (7) (7, E.H.R.&A. INC.) THENCE: S 44°41'08" E (Call South 44°41'08" East, 14.73 feet), at 14.73 feet to a point;
- (8) (8, E.H.R.&A. INC.) THENCE: S 25°42'16" E (Call South 25°42'16" East, 23.63 feet), at 23.63 feet to a point;
- (9) (9, E.H.R.&A. INC.) THENCE: S 21°31'26" E (Call South 21°31'26" East, 48.80 feet), at 48.80 feet to a point;
- (10) (10, E.H.R.&A. INC.) THENCE: S 24°18'55" E (Call South 24°18'55" East, 36.65 feet), at 36.65 feet to a point;
- (11) (11, E.H.R.&A. INC.) THENCE: S 23°02'23" E (Call South 23°02'23" East, 43.48 feet), at 43.48 feet to a point;
- (12) (12, E.H.R.&A. INC.) THENCE: S 32°41'37" E (Call South 32°41'37" East, 41.56 feet), at 41.56 feet to a point;
- (13) (13, E.H.R.&A. INC.) THENCE: S 39°04'34" E (Call South 39°04'34" East, 23.02 feet), at 23.02 feet to a point;
- (14) (14, E.H.R.&A. INC.) THENCE: S 43°05'41" E (Call South 43°05'41" East, 23.55 feet), at 23.55 feet to a point;
- (15) (15, E.H.R.&A. INC.) THENCE: S 89°57'44" E (Call South 89°57'44" East, 22.50 feet), at 22.50 feet to a point;
- (16) (16, E.H.R.&A. INC.) THENCE: N 62°41'04" E (Call North 62°41'04" East, 21.03 feet), at 21.03 feet to a point;
- (17) (17, E.H.R.&A. INC.) THENCE: N 32°09'28" E (Call North 32°09'28" East, 44.39 feet), at 44.39 feet to a point;
- (18) (18, E.H.R.&A. INC.) THENCE: N 10°10'15" W (Call North 10°10'15" West, 36.41 feet), at 36.41 feet to a point;
- (19) (19, E.H.R.&A. INC.) THENCE: N 09°26'25" W (Call North 09°26'25" West, 45.54 feet), at 45.54 feet to a point;
- (20) (20, E.H.R.&A. INC.) THENCE: N 15°23'27" E (Call North 15°23'27" East, 43.59 feet), at 43.59 feet to a point;

- (21) (21, E.H.R.&A. INC.) THENCE: N 11°14'01" E (Call North 11°14'01" East, 48.40 feet), at 48.40 feet to a point;
- (22) (22, E.H.R.&A. INC.) THENCE: N 13°00'46" E (Call North 13°00'46" East, 21.26 feet), at 21.26 feet to a point;
- (23) (23, E.H.R.&A. INC.) THENCE: N 10°49'35" E (Call North 10°49'35" East, 30.79 feet), at 30.79 feet to a point;
- (24) (24, E.H.R.&A. INC.) THENCE: N 32°19'05" E (Call North 32°19'05" East, 12.24 feet), at 12.24 feet to a point;
- (25) (25, E.H.R.&A. INC.) THENCE: N 58°33'18" E (Call North 58°33'18" East, 11.79 feet), at 11.79 feet to a point;
- (26) (26, E.H.R.&A. INC.) THENCE: S 80°41'18" E (Call South 80°41'18" East, 26.94 feet), at 26.94 feet to a point;
- (27) (27, E.H.R.&A. INC.) THENCE: S 63°13'35" E (Call South 63°13'35" East, 31.75 feet), at 31.75 feet to a point;
- (28) (28, E.H.R.&A. INC.) THENCE: S 56°59'25" E (Call South 56°59'25" East, 57.54 feet), at 57.54 feet to a point;
- (29) (29, E.H.R.&A. INC.) THENCE: S 59°37'32" E (Call South 59°37'32" East, 54.26 feet), at 54.26 feet to a point;
- (30) (30, E.H.R.&A. INC.) THENCE: S 59°24'03" E (Call South 59°24'03" East, 33.57 feet), at 33.57 feet to a point;
- (31) (31, E.H.R.&A. INC.) THENCE: S 57°44'53" E (Call South 57°44'53" East, 37.89 feet), at 37.89 feet to a point;
- (32) (32, E.H.R.&A. INC.) THENCE: S 58°14'18" E (Call South 58°14'18" East, 35.57 feet), at 35.57 feet to a point;
- (33) (33, E.H.R.&A. INC.) THENCE: S 59°55'00" E (Call South 59°55'00" East, 46.09 feet), at 46.09 feet to a point;
- (34) (34, E.H.R.&A. INC.) THENCE: S 50°39'40" E (Call South 50°39'40" East, 31.93 feet), at 31.93 feet to a point;

- (35) (35, E.H.R.&A. INC.) THENCE: S 81°19'12" E (Call South 81°19'12" East, 21.88 feet), at 21.88 feet to a point;
- (36) (36, E.H.R.&A. INC.) THENCE: N 34°51'06" E (Call North 34°51'06" East, 20.55 feet), at 20.55 feet to a point;
- (37) (37, E.H.R.&A. INC.) THENCE: N 15°39'43" E (Call North 15°39'43" East, 23.19 feet), at 23.19 feet to a point;
- (38) (38, E.H.R.&A. INC.) THENCE: N 27°35'55" W (Call North 27°35'55" West, 25.09 feet), at 25.09 feet to a point;
- (39) (39, E.H.R.&A. INC.) THENCE: N 45°59'51" W (Call North 45°59'51" West, 31.29 feet), at 31.29 feet to a point;
- (40) (40, E.H.R.&A. INC.) THENCE: N 38°24'53" W (Call North 38°24'53" West, 41.42 feet), at 41.42 feet to a point;
- (41) (41, E.H.R.&A. INC.) THENCE: N 48°11'04" W (Call North 48°11'04" West, 42.03 feet), at 42.03 feet to a point;
- (42) (42, E.H.R.&A. INC.) THENCE: N 52°44'02" W (Call North 52°44'02" West, 37.78 feet), at 37.78 feet to a point;
- (43) (43, E.H.R.&A. INC.) THENCE: N 47°31'18" W (Call North 47°31'18" West, 36.54 feet), at 36.54 feet to a point;
- (44) (44, E.H.R.&A. INC.) THENCE: N 51°00'12" W (Call North 51°00'12" West, 68.46 feet), at 68.46 feet to a point;
- (45) (45, E.H.R.&A. INC.) THENCE: N 54°27'30" W (Call North 54°27'30" West, 53.57 feet), at 53.57 feet to a point;
- (46) (46, E.H.R.&A. INC.) THENCE: N 50°14'59" W (Call North 50°14'59" West, 43.08 feet), at 43.08 feet to a point;
- (47) (47, E.H.R.&A. INC.) THENCE: N 50°50'55" W (Call North 50°50'55" West, 63.18 feet), at 63.18 feet to a point;
- (48) (48, E.H.R.&A. INC.) THENCE: N 45°44'33" W (Call North 45°44'33" West, 53.82 feet), at 53.82 feet to a point;

- (49) (49, E.H.R.&A. INC.) THENCE: N 17°44'30" W (Call North 17°44'30" West, 55.91 feet), at 55.91 feet to a point;
- (50) (50, E.H.R.&A. INC.) THENCE: N 04°00'03" W (Call North 04°00'03" West, 43.57 feet), at 43.57 feet to a point;
- (51) (51, E.H.R.&A. INC.) THENCE: N 16°15'40" W (Call North 16°15'40" West, 51.84 feet), at 51.84 feet to a point;
- (52) (52, E.H.R.&A. INC.) THENCE: N 15°27'23" W (Call North 15°27'23" West, 69.20 feet), at 69.20 feet to a point;
- (53) (53, E.H.R.&A. INC.) THENCE: N 09°53'22" E (Call North 09°53'22" East, 38.80 feet), at 38.80 feet to a point on the south line of Pebble Glen on the Lake, plat of which is recorded in Cabinet N, Sheets 125 thru 128;
- (54) (54, E.H.R.&A. INC.) THENCE: S 81°28'22" E (Call South 81°28'22" East, 849.60 feet), at 849.60 feet passing a 5/8-inch iron rod with cap stamped "E.H.R.&A. 713-784-4500" for reference, and continuing in all 849.60 feet to a 5/8-inch iron rod for the southeast corner of said Pebble Glen on the Lake;
- (55) (55, E.H.R.&A. INC.) THENCE: N 11°49'44" E (Call North 11°49'44" East, 1012.69 feet), along the east line of said Pebble Glen on the Lake, at 1001.57 feet passing a 5/8-inch iron rod found for the northeast corner of said Pebble Glen on the Lake, and continuing in all 1012.69 feet to a point on the 201-foot contour line;
- (56) (C.C.C.) THENCE: N 14°40'50" <sup>E</sup> W, at approximately 115.91 feet, to a point for corner along the east line of Calfee Road (60-foot wide right-of-way) recorded in Volume 632, Page 291 and Volume 640, Page 139, both of Montgomery County Deed Records, also being along the 201-foot contour line;
- (57) (77, E.H.R.&A. INC.) THENCE: N 11°11'40" E (Call North 11°11'40" East, 229.43 feet), at 229.43 feet along the east line of said Calfee Road to a 1/2-inch iron rod, being the southwest corner of the aforementioned 23.419-acre tract;
- THENCE: in a northerly direction along the common line of said Calfee Road and said 23.419-acre tract, the following three (3) courses and distances;
- (58) (78, E.H.R.&A. INC.) THENCE: N 21°10'19" E (Call North 21°10'19" East, 89.90 feet), at 89.90 feet to a PK Nail;
- (59) (79, E.H.R.&A. INC.) THENCE: N 51°27'01" E (Call North 51°27'01" East, 105.82 feet), at 105.82 feet to a 5/8-inch iron rod;

(60) (80, EHR&A, INC.) THENCE N 12°47'09" E (Call North 12°47'09" East, 328.18 feet), at 328.18 feet to a point on the southwest corner of League Line Road (60-foot right-of-way) recorded in Volume 828, Page 102 and Volume 1048, Page 571, both of the Montgomery County Deed Records from which a 1/2-inch iron rod with cap stamped "Jeff Moon FFLS4838" for the most westerly northwest corner of said 23.939-acre tract recorded under Montgomery County Clerk's File No. 2005084850 of the Official Public Records of Real Property bears N 12°47'09" E, 133.02 feet;

(61) (81, EHR&A, INC.) THENCE S 76°39'07" E (Call South 76°39'07" East, 1082.79 feet), at 98.85 feet passing a PK Nail for the corner of said 23.939-acre tract, and continuing in all 1082.79 feet, along the south line of said League Line Road same as said 23.419-acre tract, to a 5/8-inch iron rod;

(62) (82, EHR&A, INC.) THENCE S 77°19'32" E (Call South 77°19'32" East, 980.27 feet), at 980.27 feet, continuing along the north line of said 23.419-acre tract same as south line of League Line Road, to a 5/8-inch iron rod, being the northeast corner of said 23.419-acre tract and on the west line of the remainder of a called 90.033-acre tract (Tract 3) recorded under Montgomery County Clerk's File No. 9509572 of the Official Public Records of Real Property;

(63) (83, EHR&A, INC.) THENCE S 12°09'43" W (Call South 12°09'43" West, 485.18 feet), along the common line of said remainder tract and said 23.419-acre, at 484.50 feet passing a 5/8-inch iron rod and continuing in all 485.18 feet to a 5/8-inch iron rod with cap stamped "EHR&A. 713-784-4500" for the south line of said remainder tract, also being on the north line of a called 121.838-acre tract recorded in Volume 468, Page 131 of the Montgomery County Deed Records and the north line of aforementioned 23.43-acre tract;

(64) (84, EHR&A, INC.) THENCE S 77°02'20" E (Call South 77°02'20" East, 2149.46 feet), at 2149.46 feet along the common line of said remainder tract, said 121.838-acre tract and said 23.43-acre tract, to an iron strap for the east line of Longmire Road, being the northeast corner of said 121.838-acre tract and said 23.43-acre tract and the northwest corner of a called 99.75-acre tract recorded under Montgomery County Clerk's File No. 9891554 of the Official Public Records of Real Property, also being a point along the northern line and a corner for the existing City Limits of Conroe as established by City of Conroe Ordinance No. 1669-04, having a Texas State plane Coordinate value of Northing (y)=10,133,034.365, Easting (x)=3,810,788.489 as measured by GPS;

(65) (85, EHR&A, INC.) THENCE S 12°12'48" W (Call South 12°12'48" West, 1791.25 feet), along the common line of said existing City Limits of Conroe, said 121.838-acre tract, said 23.43-acre tract, said Longmire Road, said 99.75-acre tract, aforementioned 33.881-acre tract, and aforementioned 37.584-acre tract, at 428.83 feet passing a 1/4-inch iron rod marking the common east corner said 23.43-acre tract, and said 33.881-acre tract, at 1074.23 feet passing a 1/4 iron rod marking the common east corner of said 33.881-acre tract and said 37.584-acre tract, at 1118.58 feet passing a corner of said City Limits of Conroe, and continuing in all 1791.25 feet to a PK Nail marking the southeast corner of said 37.584-acre tract and the northeast corner of a called 28.5518-acre tract

recorded under Montgomery County Clerk's File No. 2004020900 of the Official Public Records of Real Property;

(66) (86, E.H.R.&A. INC.) THENCE: N 77°53'49" W (Call North 77°53'49" West, 2280.36 feet), at a distance of 2280.36 feet, along the common line of said 37.564-acre tract and said 26.5516-acre tract, to a 1/4-inch iron rod marking the common west corner of said 37.564-acre tract and said 26.5516-acre tract, being on the east line of aforementioned 321.470-acre tract;

(67) (87, E.H.R.&A. INC.) THENCE: S 11°58'58" W (Call South 11°58'58" West, 507.48 feet), at a distance of 507.48 feet along the common line of said 26.5516-acre tract and said 321.470-acre tract, to a 3/4-inch iron pipe found for the southwest corner of said 26.5516-acre tract and the northwest corner of a 74,7657-acre subdivision known as The Estates of Longmire on Lake Conroe, plat of which is recorded in Cabinet H, Sheets 92B, 93A, 93B and 94A of Montgomery County Map Records;

(68) (88, E.H.R.&A. INC.) THENCE: S 11°12'47" W (Call South 11°12'47" West, 1416.70 feet), at a distance of 1416.70 feet, along the common line of said 321.470-acre tract and said The Estates of Longmire on Lake Conroe, to a fence corner on the north line of the aforementioned Longmire Way, being the northeast corner of a 1.908-acre tract, recorded under Montgomery County Clerk's File No. 9536930, also being on the arc of a non-tangent curve to the right;

(69) (A.E.S.C.) THENCE: S 11°12'47" W (Call N 14°43'21" E, 60.01 feet), at a distance of 60.01 feet, to a point being the southeast corner of said 1.908-acre tract, being on the arc of a non-tangent curve to the right from which a point for the southwest corner of said 74,7657-acre subdivision known as The Estate of Longmire on Lake Conroe, bears S 11°12'47" W (Call N 14°43'21" E, 9.99 feet) 9.99 feet.

(70) (A.E.S.C.) THENCE: Along the arc of said non tangent curve to the right having a radius of 2050.56 feet, a central angle of 5°40'17", an arc length of 202.98 feet, and a chord bearing of N 74°37'39" W (Call chord bearing of S 71°04'37" E, 203.44 feet), at 202.89 feet to a point for corner, also being at a point of reverse curvature;

(71) (A.E.S.C.) THENCE: Along the arc of said reverse curve to the left having a radius of 764.29 feet, a central angle of 14°21'05", an arc length of 191.44 feet, and a chord bearing of N 78°55'01" W (Call chord bearing of S 75°24'37" E, 190.94 feet), at 190.94 feet to a point for corner and beginning a point of reverse curvature;

(72) (A.E.S.C.) THENCE: Along the arc of said curve to the left having a radius of 1550.91 feet, a central angle of 7°28'46", an arc length of 203.63 feet, and a chord bearing of N 82°21'11" W (Call chord bearing of S 78°50'47" E, 203.49 feet), at 203.49 feet to a point for corner;

(73) (A.E.S.C.) THENCE: N 78°36'48" W (Call S 75°06'24" E, 386.86 feet), at a distance of 386.86 feet to a point for corner and beginning a curve to the left;

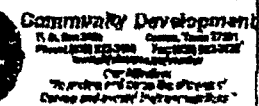
(74) (A.E.S.C.) THENCE: Along the arc of said curve to the left having a radius of 2651.89 feet, a central angle of  $4^{\circ}16'15''$ , an arc length of 197.68 feet, and a chord bearing of  $N 80^{\circ}44'56'' W$  (Call chord bearing of  $S 77^{\circ}14'32'' E$ , 197.63 feet), at 197.63 feet to a point for corner, also being a point of reverse curvature;

(75) (A.E.S.C.) THENCE: Along the arc of said curve to the right having a radius of 2057.82 feet, a central angle of  $05^{\circ}38'46''$ , an arc length of 202.78 feet, and a chord bearing of  $N 80^{\circ}03'40'' W$  (Call chord bearing of  $S 76^{\circ}33'16'' E$ , 202.70 feet), at 202.70 feet to a point for corner, being the southwest corner of said 1.908-acre tract, also being a point for corner of a 43.537-acre subdivision known as White Oak Ranch, Section One, plat of which is recorded in File # 2001-060905, Cabinet Q, Sheets 75-76 of Montgomery County Map Records;

(76) (A.E.S.C.) THENCE:  $N 12^{\circ}43'59'' E$  (Call  $S 16^{\circ}14'23'' W$ , 60.00 feet), crossing Longmire Way at a distance of 60.00 feet to a point being the northwest corner of said 1.908-acre tract and beginning a curve to the left and being the southwest corner of said 59.2175 acre tract; being a POINT of BEGINNING of the herein described acreage, in all containing 296.51 acres of land, more or less;

Compiled By:  
Community Development, Engineering Division  
Project No. 2008-013-AnnexationStudy-HendricksTract (rev20070420)  
April 20, 2008

THE FOLLOWING LEGAL DESCRIPTION IS ISSUED FOR THE PURPOSE OF ATTACHMENT TO ANNEXATION DOCUMENTS. IT SHOULD NOT BE USED FOR TITLE TRANSFER. THE DATUM FOR ALL BEARINGS GIVEN IS NAD\_1983\_STATEPLANE\_Texas\_CENTRAL\_FIPS\_4203. ALL DISTANCES ARE GIVEN IN U.S. SURVEY FEET. ALL "CALLED" BEARINGS SHOWN ARE AS FOUND FROM RECORDED DEEDS OR ANNEXATION ORDINANCES. NO REPRESENTATION OF AN "ON THE GROUND" SURVEY IS MADE. THIS INSTRUMENT INCLUDES LANDS THAT ARE SUBJECT TO CONSENT OF ANNEXATION BECAUSE OF HOLDING TAX EXEMPTIONS FOR AGRICULTURAL, TIMBER AND WILDLIFE MANAGEMENT USES. SUCH CONSENT WAS OBTAINED UPON PETITION OF ANNEXATION BY LANDOWNER.



## EXHIBIT B

### City of Conroe Annexation Service Plan For Annexation Parcel 2008-01

#### I. TERRITORY

This service plan is applicable to 296.51 acres of land, more or less, out of the James Edwards Survey, A-180, and Elijah Collard Survey, A-2, in Montgomery County, Texas. The territory is located in the general vicinity of the southwest corner of the intersection of League Line Road and Longmire Road. A map of the area is attached hereto and incorporated herein by reference. The territory is presently undeveloped land.

#### II. GENERAL PROVISIONS

a. **Effective Term.** This service plan shall be in effect for a ten-year period commencing on the effective date of the annexation.

b. **Amendment or Renewal.** This service plan may be amended from time to time as provided by Local Government Code, Sec. 43.056(k). Renewal of the service plan shall be at the sole option of the City Council.

c. **Intent.** It is the intent of the City of Conroe that this service plan shall provide for the delivery of full municipal services to the annexed area in accordance with State law. The failure of this plan to describe any particular service shall not be deemed to be an attempt to omit the provision of such services from the annexed area. The delivery of municipal services may be accomplished through any means permitted by law.

d. **Level of Services to be Provided.** It is the intent of the City of Conroe to provide the level of services required by State law. The City Council finds and determines that the level of services, infrastructure and infrastructure maintenance provided within the area prior to annexation is not greater than is provided in the City. The City Council finds and determines that the services, infrastructure and infrastructure maintenance proposed by this plan are comparable to that provided to other parts of the City with topography, land use, and population density reasonably similar to the annexed area. The City Council finds and determines that implementation of this plan in the manner proposed will not reduce the level of fire, police, and emergency medical services available within the City.

### III. SERVICES TO BE PROVIDED AT ANNEXATION

These services will be provided within the annexed area immediately upon the effective date of the annexation.

**a. Police Protection.** Police services include criminal investigations, routine patrol, traffic enforcement, and dispatched response to both emergency and non-emergency service calls.

No new patrol officers or patrol units are necessary as a result of this annexation and it is anticipated that police services within the annexed area will be provided utilizing existing levels of personnel and equipment.

**b. Fire Protection.** The Conroe Fire Department will provide emergency fire suppression and routine fire prevention services within the annexed area.

The Conroe Fire Department does not provide primary EMS services. The Montgomery County Hospital District currently provides EMS services throughout the County. Fire fighters may be dispatched to the scene of accidents or other medical emergencies to assist Hospital District EMS personnel or to provide "first responder" services pending the arrival of EMS personnel.

The Fire Department currently operates five fire stations that are located on North Loop 336, Foster Drive, Southwest Blvd, on Carter Moore Drive (FM 3083) and in the Woodlands Trade Center. Each station responds to service calls within a primary zone but may be called upon to provide support within other areas of the City as necessary. The annexed area will initially be incorporated in the zones served by Station No. 5 on Carter Moore Drive. The station(s) assigned to the annexed area may be altered from time to time in response to service demands, shifts or growth in population, future annexations or other relevant considerations.

Montgomery County Emergency Services District No. 1 currently provides fire protection services to the area. After the area is annexed to Conroe the City will require the ESD to remove the area from the territory of the ESD.

**c. Solid Waste Collection.** The City provides fee based household garbage collection services to single family residences. The City does not collect garbage from most commercial establishments. Commercial garbage collection and disposal is available from privately owned collection businesses within the City. Apartments and other multifamily buildings are considered commercial and must obtain collection services from private business. The City may, in its discretion, agree to provide service to small commercial establishments that generate waste collection demands similar to a single-family residence.

The City currently provides residential garbage collection for single-family residences at the street curb using a contract service provider. The current contract provider employs an automated collection system that requires use of a specific collection container. In accordance with the currently established policy each household will be provided, without charge, a collection container for waste disposal. Additional containers may be obtained for a fee.

Privately owned solid waste management service providers may continue to provide both residential and commercial services throughout the annexed area prior to the second anniversary of the effective date of annexation. Commencing upon such second anniversary such providers shall be prohibited from the further provision of residential services. Pending the expiration of such two year period the City shall not apply any fee for solid waste management services upon a person who continues to use the services of a privately owned solid waste management service provider.

**d. Maintenance of Water and Wastewater Facilities.** The territory is presently undeveloped land and there are no existing water or wastewater facilities. Portions of the territory are located within the service areas of Aqua Development, Inc., and C & R Water Supply Inc., both being retail public utilities with exclusive service rights to that portion of the territory covered by their respective certificates of convenience and necessity.

David B. Hendricks and Houston Intercontinental Trade Center, LTD, hereinafter referred to as "the Developers", own substantially all of the territory to be annexed. The Developers have petitioned the City to permit the creation of an in city municipal utility district preliminarily designated Montgomery County Municipal Utility District No. 126 which will include substantially all of the annexed territory.

The City and the Developers, acting on behalf of the proposed MUD 126, have entered into a Utility Services and Development Agreement dated March 13, 2008. Pursuant to this agreement the City will consent to the creation of MUD 126 and will extend City water and sewer facilities to designated points of connection at or near the boundaries of the district. For so long as the district continues to exist the City shall provide the district with an adequate water supply and wastewater treatment services in accordance with the Utility Services and Development Agreement.

MUD 126 will provide for the installation, operation and maintenance of all internal water and sewer utility facilities necessary to serve the annexed territory. The Developers, acting on behalf of the proposed MUD 126, have entered into an agreement with Aqua Development, Inc. to provide for the assignment of its certificate of convenience and necessity rights to MUD 126. Pursuant to this

agreement MUD 126 will contract with Aqua Operations, Inc. to operate the MUD 126 water and sewer utility systems.

The City has entered into a separate agreement with C & R Water Supply Inc., to acquire that retail utility's service rights within the boundaries of the annexed territory. Upon the acquisition of such service rights the City shall transfer the rights or take such other action as may be reasonable or necessary to authorize MUD 126 to serve the territory within its boundaries that is presently within the service territory of C & R Water Supply Inc.

**e. Maintenance of Roads, Streets and Street Lighting.** The City is not responsible for the maintenance of private streets or roads in the annexed area. The City will assume the responsibility for maintenance of public streets and roads previously accepted for maintenance by official action of the Commissioners Court of Montgomery County. Any such streets or road formerly maintained by Montgomery County that become subject to City maintenance will be maintained in a condition which is at least equal to the County maintenance standard, however, the City will not be required to reconstruct or upgrade such streets to a higher standard. The only County maintained roadway that has been identified within the annexed area is a portion of Longmire Way.

It is the responsibility of the developer to construct or provide those streets or roads necessary to serve the demands of new development in the area to be annexed. The City may accept the dedication of public streets constructed in accordance with applicable development regulations of the City and will thereafter be responsible for their maintenance.

**f. Maintenance of Parks, Playgrounds and Swimming Pools.** There are no public parks, playgrounds, or swimming pools within the area to be annexed. Private recreational facilities, open spaces and swimming pools are unaffected by the annexation.

**g. Maintenance of any other Public Building, Facility or Service.** Annexation does not transfer ownership of most public buildings, facilities or services, all of which should continue to be maintained or provided by the public entity that currently owns or provides them. Privately owned facilities, including privately owned and operated storm water detention facilities, are not affected by the annexation.

An appropriate City Department will be assigned to assume responsibility for the maintenance or provision of any facilities or services which become the responsibility of City and are not covered by this service plan.

#### IV. CAPITAL IMPROVEMENTS

Construction of these capital improvements will be substantially completed within 2½ years.

**a. Police Protection.** No additional capital improvements are needed at this time to provide police services.

**b. Fire Protection.** No capital improvements are needed at this time to provide fire protection services.

**c. Solid Waste Collection.** No capital improvements are needed at this time to provide solid waste collection services.

**d. Water and Wastewater Facilities.** The City will extend its water and sewer mains to the boundaries of the annexed area in accordance with the Utility Services and Development Agreement for MUD 126. The City shall have no obligation to construct or provide water or sewer facilities within the area to be annexed.

**e. Roads, Streets and Streetlights.** No new roads, streets or street lights are needed at this time. It will be the responsibility of the developer of the property to provide the roads and streets necessary to serve new development within the annexed area.

**f. Parks, Playgrounds and Swimming Pools.** No capital improvements are needed at this time to provide recreational services.

**g. Other Public Buildings, Facilities or Services.** No capital improvements are needed at this time to provide other public services.

## **V. WATER AND WASTEWATER SERVICE EXTENSION POLICIES**

The City provides fee based water and wastewater services to the portions of the City which are not within an area served by another water or wastewater utility. Water and wastewater services are generally only provided to lots that have been properly subdivided or platted. The City may decline to provide service to any property that is not platted.

For lots that have water or wastewater lines in an abutting street or easement, the owner may receive water or wastewater service by applying for a City tap and paying any required fees.

The provision of water and wastewater facilities for new development within the City is primarily governed by the City's building code and subdivision ordinances that are found in Chapters 14 and 94 of the City Code of Ordinances. New development must be served by owner/developer provided public water and wastewater facilities that meet the City's standard requirements. Upon

construction and dedication by the owner/developer the City agrees to provide services via the facilities and thereafter to maintain them.

Facilities necessary to serve a new development are provided at the sole cost of the owner/developer. Such facilities include not only those which are located within the owner/developer's property, but also any exterior mains which must be extended to connect the property under development to the point of connection with the City's existing facilities. The City need not compensate the owner/developer for the ordinary costs of extending exterior mains. The owner/developer may be reimbursed for ordinary exterior main extension costs through the imposition of lot or acreage fees to be levied against other adjacent properties upon connection to the owner/developer constructed mains.

The City may require that the owner/developer provide oversized water or wastewater facilities. In such cases the City will pay the reasonable cost of such oversizing. Whether or not a particular line sizing constitutes "oversizing" is determined upon the basis of generally accepted sound engineering design practices.

In newly annexed areas the City examines the need for line extensions to serve existing development that does not currently receive water or waste water services. The City will determine the need for the construction of lines and facilities to serve existing development after giving due consideration to (1) the topography, (2) land use, (3) population density, (4) the adequacy of existing private water wells and septic tanks and (5) anticipated levels of demand. The City will not undertake line extensions to serve such existing development unless the new lines will be logical, reasonable and prudent extensions of the City's existing facilities.

From time to time, upon the request of an interested property owner the City will consider whether or not line extensions previously deemed unnecessary have become necessary as a result of changed conditions.

The City may recover the capital costs of extending water or wastewater facilities to serve existing development through the use of impact fees, assessments or any other method authorized by law.

Once sewer lines become available in an abutting street or easement the City may require that existing development connect to the City sewer system.

**Community Development**  
P. O. Box 5040      Houston, Texas 77211  
Phone (281) 222-9200      Fax (281) 222-9201  
[www.cdmc-houston.org/indiv.htm](http://www.cdmc-houston.org/indiv.htm)  
Our Mission is  
"To create and sustain a culture of  
community development that empowers."

**CITY SECRETARY CERTIFICATION**

**STATE OF TEXAS**

§

**COUNTY OF MONTGOMERY**

§

§

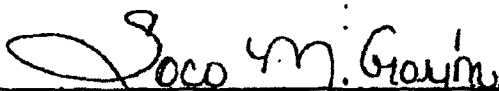
I, **SOCO M. GORJÓN**, being the duly qualified, appointed and acting Assistant City Secretary of the City of Conroe, Texas, do hereby certify that the pages hereto attached are a true and correct copy of the following described document which has been duly passed and approved by the Conroe City Council and recorded among the official documents of the City of Conroe, Texas, to wit:

**ORDINANCE NO. 1848-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS, GIVING ITS CONSENT TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT (TO BE KNOWN AS MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126).**

**Passed and Approved the 22<sup>ND</sup> day of May 2008.**

**SIGNED AND CERTIFIED the 22<sup>nd</sup> day of May 2008.**



**SOCO M. GORJÓN, ASSISTANT CITY SECRETARY  
CITY OF CONROE, TEXAS**

CERTIFICATE FOR ORDINANCE

I.

On the 22 day of May, 2008, the City Council of the City of Conroe, Texas consisting of the following qualified members, to-wit: Webb Melder, Mayor; Council Members Pat George, Jerry Streater, and Toby Powell, did convene in public session in the Council Chambers of the City Hall at 300 West Davis in Conroe, Texas. The roll being first called, a quorum was established, all members being present except the following, to wit: Jay Ross Martin and Jim Gentry. The Meeting was open to the public and public notice of the time, place and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

II.

WHEREUPON, AMONG OTHER BUSINESS transacted, the Council considered adoption of the following written Ordinance, to-wit:

ORDINANCE NO. 1848-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS, GIVING ITS CONSENT TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT.

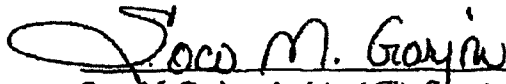
III.

Upon motion of Council Member George, seconded by Council Member Streater, all members present voted for adoption of the Ordinance, except the following: No one voted against and no one abstained. A majority of those Council Members present having voted for adoption, the presiding officer declared the Ordinance passed and adopted.

IV.

A true, full and correct copy of the Ordinance adopted at the Meeting is attached to and follows this Certificate.

SIGNED AND SEALED this 22 day of May, 2008.

  
Soco M. Gorjon, Assistant City Secretary

ORDINANCE NO. 1848-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS, GIVING ITS CONSENT TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT.

\* \* \* \* \*

WHEREAS, by Petition dated March 13, 2008, a copy of which is attached hereto and incorporated herein by reference (the "Petition") David B. Hendricks and Houston Intercontinental Trade Center, L.P., have requested the consent of the City of Conroe (the "City") to the creation of a municipal utility district (to be known as Montgomery County Municipal Utility District No. 126) containing 293 acres, more or less, located within the corporate limits of the City, (the "Property") as more particularly described in Exhibit "A" to the attached Petition; and

WHEREAS, Section 54.016 of the Texas Water Code and Section 42.042 of the Local Government code provide that land within a City's corporate limits may not be included within a municipal utility district without the City's written consent;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONROE, TEXAS:

Section 1. This Ordinance when properly executed is the City's written consent to the creation of a municipal utility district ("MUD") to serve the Property. This consent is given and made expressly subject to those conditions set forth in Exhibit "B" of the Petition. No further action shall be required on the part of the City to indicate such consent. This Ordinance shall likewise indicate the consent of the City for the MUD to annex or exclude contiguous land into or out of the MUD; provided, however, the MUD may not annex any land outside the Property without prior written approval of the City. Notwithstanding the foregoing, the Mayor is authorized to execute and deliver any additional documentation evidencing such consent as may be requested or required by the MUD or any regulatory authority having jurisdiction over such MUD.

Section 2. The MUD is authorized to exercise all powers granted to municipal utility districts or which may be hereinafter granted under the Constitution and the laws of the State of Texas, including, but not limited to, the power to provide water, wastewater and drainage facilities, parks and recreational facilities and roads; and to issue bonds for all such purposes, provided however, the exercise of such powers shall be subject to the conditions set forth in the Utility Services and Development Agreement dated March 13, 2008, made by and between the City of Conroe and David B. Hendricks and Houston Intercontinental Trade Center, L.P., which agreement was entered into on behalf of and in contemplation of its assignment to the District. As soon as practical following its organization, the District shall accept the assignment of such Agreement and agree to be bound thereby. The District may not sell or

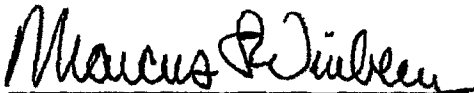
issue bonds prior to accepting such assignment and making written acknowledgement of same of the City of Conroe.

Section 3. Upon confirmation of creation, the MUD shall notify the City of its confirmation and of any annexation or exclusion of property into or out of the MUD, and shall provide a map of the MUD to the City Secretary in Mylar, hard copy and electronic format.

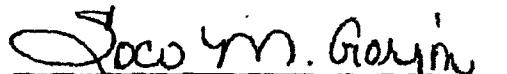
PASSED AND APPROVED this the 22 day of May, 2008.

  
WEBB K. MELDER, MAYOR

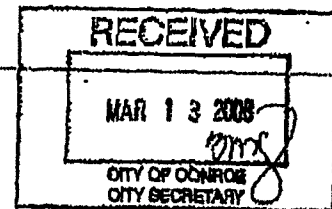
APPROVED AS TO FORM:

  
MARCUS L. WINBERRY, City Attorney

ATTEST:

  
SOCO M. GORJON, Assistant City Secretary

PETITION FOR CONSENT TO CREATION  
OF A MUNICIPAL UTILITY DISTRICT



TO THE HONORABLE MAYOR AND  
CITY COUNCIL OF THE CITY OF CONROE:

The undersigned, hereinafter called "Petitioner" (whether one or more), being the holder of title to a majority in value of the lands hereinafter described, as such values are indicated by the tax rolls of the central appraisal district of Montgomery County, Texas, acting pursuant to the provisions of Section 54.016, Texas Water Code, as amended, respectfully petitions for consent to the creation of a municipal utility district, hereinafter called the "District". In support of this petition for consent to creation of the District, Petitioner shows as follows:

I.

The name of the District will be MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126.

II.

The area of the land to be included in the District contains 293.492 acres, more or less, and lies wholly within Montgomery County, Texas. All of said area is within the extraterritorial jurisdiction of the City of Conroe, Texas (the "City"), and is in the process of being annexed into the corporate limits of the City. None of said area is within the corporate limits or extraterritorial jurisdiction of any other city. Petitioner hereby certifies that the lienholders executing this petition below are the only holders of liens against the land to be included in the District.

III.

The land sought to be included within the area of the District is described by metes and bounds in Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

IV.

The District will be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapter 49 and Chapter 54 of the Texas Water Code, as amended. The purposes of and the general nature of the work proposed to be done by the District shall be the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

(1) provide a water supply for municipal uses, domestic uses and commercial purposes;

(2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state;

(3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the District and the payment of organization expenses, operational expenses during construction and interest during construction;

(4) exercise road powers and authority ("Road Powers") pursuant to applicable law and Chapter 54 of the Texas Water Code, as amended;

(5) finance, develop and maintain recreational facilities for the people of the District if and as allowed by applicable law; and

(6) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created and permitted under state law.

V.

The area of the District is urban in nature, is within the growing environs of the City of Conroe, and is in close proximity to populous and developed sections of Montgomery County. The District's area will, within the immediate future, experience a substantial and sustained residential and commercial growth. Therefore, there is a necessity for the improvements described above for the following reasons:

(1) The District's area is not supplied with adequate water and sanitary sewer facilities and services, or with adequate drainage facilities. The health and welfare of the future inhabitants of the area and of territories adjacent thereto require the installation and acquisition of adequate water, sanitary sewer, and drainage facilities for and within the area of the District.

(2) The future inhabitants of the area and of territories adjacent thereto require recreational facilities, as same are necessary and desirable for the health and well-being of such inhabitants. The District's area does not currently include adequate recreational facilities within its boundaries.

(3) The future inhabitants of the area and of territories adjacent thereto require adequate road facilities, as same are necessary and desirable for the health and welfare of such

inhabitants, and for the orderly growth of residential and commercial development within the area and territories adjacent thereto. Road powers may be of necessity to the District and to the land within the District as such powers will allow the District to construct, acquire, improve, and provide financing for road facilities that may not otherwise be constructed in a manner that will proactively address safety, capacity, durability, economic feasibility, and regional mobility issues..

A public necessity exists for the organization of such District to promote and protect the purity and sanitary condition of the State's waters and the public health and welfare of the community, by and through the purchase, construction, extension, improvement, maintenance and operation of a water supply and sanitary sewer system, drainage facilities, recreational facilities (if allowed by applicable law) and road facilities.

VI.

The Petitioner agrees and hereby covenants that if the requested consent to the creation of the District is given, the Petitioner will adopt and abide by, and will cause the District upon its final creation to adopt and abide by, the conditions set forth in Exhibit "B", attached hereto and incorporated herein for all purposes.

VII.

It is now estimated by those filing this petition, from such information as they have at this time, that the ultimate cost of the development contemplated will be approximately \$24,375,000 for water, sewer and drainage facilities, \$1,310,000 for recreational facilities, and \$3,340,000 for road facilities.

WHEREFORE, Petitioner respectfully prays that this petition be granted in all respects and that the City of Conroe give its written consent to the creation of said District.

Dated this 13 day of MARCH, 2008.

David B. Hendricks  
DAVID B. HENDRICKS

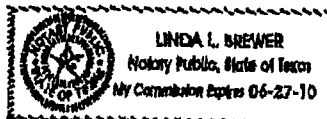
"PETITIONER"

THE STATE OF TEXAS      §  
COUNTY OF WARRIS      §

This instrument was acknowledged before me on this the 13  
day of MARCH 2008, by David B. Hendricks.

Linda Brewer  
Notary Public in and for  
the State of Texas

(NOTARY SEAL)



HOUSTON INTERCONTINENTAL TRADE  
CENTER, L.P., a Texas limited  
partnership

By: REVISTA, Inc., a Texas  
corporation and its sole general  
partner

By: Michael P. Barsi  
Michael P. Barsi  
President

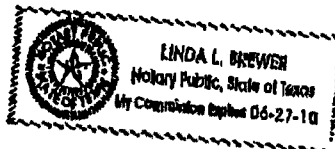
"PETITIONER"

THE STATE OF TEXAS §  
COUNTY OF Harris §

This instrument was acknowledged before me on this the 13  
day of MARCH 2008, by Michael P. Barsi, President of REVISTA,  
Inc., a Texas corporation and the sole general partner of Houston  
Intercontinental Trade Center, L.P., a Texas limited partnership,  
on behalf of said entities.

Linda L. Brewer  
Notary Public in and for  
the State of Texas

(NOTARY SEAL)



The undersigned, being a lienholder on a portion of the property described in the foregoing Petition consents to the creation of MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126 over the land which is more particularly described in said Petition, and to the filing of said Petition with the City of Conroe, Texas.

STERLING BANK, a Texas banking  
association

By: John N Bedford  
Name: John N Bedford  
Title: Vice Chairman

Attest

By: [Signature]  
Name: Mark C. B.  
Title: Mark C. B.

"LIENHOLDER"

(SEAL)

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

This instrument was acknowledged before me on this the 13  
day of MARCH, 2008, by JOHN N BEDFORD  
112 of Sterling Bank, a Texas banking association, on  
behalf of said banking association.

[Signature]  
Notary Public in and for  
the State of Texas



The undersigned, being a lienholder on a portion of the property described in the foregoing Petition consents to the creation of MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126 over the land which is more particularly described in said Petition, and to the filing of said Petition with the City of Conroe, Texas.

BENCHMARK BANK, a Texas banking association

By: [Signature]  
Name: David S. Crockett  
Title: Vice Chairman

Attest

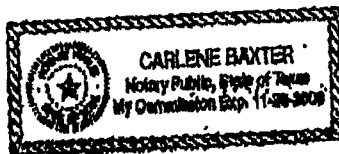
By: [Signature]  
Name: Bill G. Brewer  
Title: President

"LIENHOLDER"

(SEAL)

THE STATE OF TEXAS §  
COUNTY OF Collin §

This instrument was acknowledged before me on this the 13<sup>th</sup> day of March, 2008, by David S. Crockett Vice Chairman of Benchmark Bank, a Texas banking association, on behalf of said banking association.



[Signature]  
Notary Public in and for  
the State of Texas

# Exhibit A

## METES AND BOUNDS DESCRIPTION 293.49 ACRES IN THE JAMES EDWARDS SURVEY, ABSTRACT NO. 190 AND THE ELIJAH COLLARD SURVEY, ABSTRACT NO. 7 MONTGOMERY COUNTY, TEXAS

A 293.49-ACRE TRACT OF LAND SITUATED IN THE JAMES EDWARDS SURVEY, ABSTRACT NO. 190, AND THE ELIJAH COLLARD SURVEY, ABSTRACT NO. 7, MONTGOMERY COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 173.1765-ACRE TRACT CONVEYED TO HOUSTON INTERNATIONAL TRADE CENTER L.P. BY WARRANTY DEED RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007112573, ALL OF THAT CALLED 23.43-ACRE TRACT CONVEYED TO DAVID HENDRICKS BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2006101070, ALL OF THAT CALLED 37.584-ACRE TRACT CONVEYED TO DAVID HENDRICKS BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2006062871, ALL OF THAT CALLED 33.861-ACRE TRACT CONVEYED TO HOUSTON INTERCONTINENTAL TRADE CENTER, L.P. BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007009290, AND ALL OF THAT CALLED 23.419-ACRE TRACT CONVEYED TO HOUSTON INTERNATIONAL TRADE CENTER L.P. BY WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007112573, ALL OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, SAID 293.49-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS:

**BEGINNING** at a 5/8-inch iron rod found on the north line of Longmire Way (60-foot right-of-way) recorded under Montgomery County Clerk's File No. 8536830 of the Official Public Records of Real Property, being the southeast corner of Reserve "C" of the Replat of Longmire on Lake Conroe Sections 1 and 2, plat of which is recorded in Cabinet I, Sheets 161 thru 163 of the Montgomery County Map Records;

- (1) **THENCE** North 12°45'49" East, along the east line of said Replat of Longmire on Lake Conroe Sections 1 and 2, at 912.84 feet passing the northeast corner of said Replat of Longmire on Lake Conroe Sections 1 and 2 and the southeast corner of Longmire on Lake Conroe Section 3, plat of which is recorded in Cabinet I, Sheets 59 thru 65 of the Montgomery County Map Records, and continuing in all 1255.98 feet to a 5/8-inch iron rod found for the northeast corner of said Longmire on Lake Conroe Section 3;
- (2) **THENCE** North 77°12'18" West, 1616.63 feet, along the north line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod with cap stamped "E.H.R. & A. 713-784-4500" set for an interior corner of said Longmire on Lake Conroe Section 3;
- (3) **THENCE** North 11°56'28" East, 565.74 feet, along an interior line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod found for the northeast corner of Reserve "D" of said Longmire on Lake Conroe Section 3, being on the 201-foot contour line;

**THENCE** along the 201-foot contour line, the following fifty (50) courses and distances:

- (4) South 87°23'53" East, 33.75 feet to a point;
- (5) North 60°22'00" East, 14.06 feet to a point;
- (6) South 88°53'31" East, 14.40 feet to a point;
- (7) South 44°41'08" East, 14.71 feet to a point;
- (8) South 25°42'16" East, 23.63 feet to a point;
- (9) South 21°31'26" East, 48.60 feet to a point;
- (10) South 24°13'55" East, 36.65 feet to a point;

- (11) South 23°02'23" East, 43.48 feet to a point;
- (12) South 32°41'37" East, 41.56 feet to a point;
- (13) South 39°04'34" East, 23.02 feet to a point;
- (14) South 43°03'41" East, 23.55 feet to a point;
- (15) South 89°57'44" East, 22.30 feet to a point;
- (16) North 62°41'04" East, 21.03 feet to a point;
- (17) North 32°09'28" East, 44.39 feet to a point;
- (18) North 10°10'15" West, 36.41 feet to a point;
- (19) North 09°26'25" West, 45.54 feet to a point;
- (20) North 15°23'27" East, 43.59 feet to a point;
- (21) North 11°14'01" East, 46.40 feet to a point;
- (22) North 13°00'46" East, 21.26 feet to a point;
- (23) North 10°48'35" East, 30.79 feet to a point;
- (24) North 32°19'05" East, 12.24 feet to a point;
- (25) North 38°33'16" East, 11.79 feet to a point;
- (26) South 80°41'18" East, 26.94 feet to a point;
- (27) South 69°13'35" East, 31.75 feet to a point;
- (28) South 56°59'25" East, 57.54 feet to a point;
- (29) South 59°37'32" East, 54.24 feet to a point;
- (30) South 59°24'03" East, 33.57 feet to a point;
- (31) South 57°44'53" East, 37.89 feet to a point;
- (32) South 58°14'18" East, 35.57 feet to a point;
- (33) South 59°53'00" East, 46.89 feet to a point;
- (34) South 30°39'40" East, 31.83 feet to a point;
- (35) South 81°19'12" East, 21.86 feet to a point;
- (36) North 34°51'06" East, 20.53 feet to a point;
- (37) North 15°39'43" East, 23.19 feet to a point;
- (38) North 27°35'55" West, 25.09 feet to a point;
- (39) North 45°59'51" West, 31.29 feet to a point;
- (40) North 38°24'53" West, 41.42 feet to a point;
- (41) North 48°11'04" West, 42.03 feet to a point;
- (42) North 52°44'02" West, 37.76 feet to a point;

- (43) North 47°31'18" West, 35.54 feet to a point;
- (44) North 51°00'12" West, 65.46 feet to a point;
- (45) North 54°27'30" West, 53.57 feet to a point;
- (46) North 50°14'59" West, 43.08 feet to a point;
- (47) North 50°30'55" West, 63.18 feet to a point;
- (48) North 45°44'33" West, 53.82 feet to a point;
- (49) North 17°44'30" West, 55.91 feet to a point;
- (50) North 04°00'03" West, 43.57 feet to a point;
- (51) North 16°13'40" West, 51.84 feet to a point;
- (52) North 15°27'23" West, 69.20 feet to a point;
- (53) North 09°53'22" East, 36.80 feet to a point on the south line of Pebble Glen on the Lake, plat of which is recorded in Cabinet N, Sheets 125 thru 128;
- (54) THENCE South 61°28'22" East, at 10.00 feet passing a 5/8-inch iron rod with cap stamped "E.H.R. & A. 713-784-4500" set for reference, and continuing in all 849.61 feet to a 5/8-inch iron rod found for the southeast corner of said Pebble Glen on the Lake;
- (55) THENCE North 11°49'44" East, along the east line of said Pebble Glen on the Lake, at 1001.37 feet passing a 5/8-inch iron rod found for the northwest corner of said Pebble Glen on the Lake, and continuing in all 1012.68 feet to a point on the 201-foot contour line;
- THENCE along the 201-foot contour line, the following twenty-one (21) courses and distances:
- (56) South 87°34'31" East, 44.31 feet to a point;
- (57) North 83°18'39" East, 103.78 feet to a point;
- (58) South 87°41'11" East, 41.82 feet to a point;
- (59) South 89°57'21" East, 52.34 feet to a point;
- (60) South 83°58'25" East, 51.16 feet to a point;
- (61) South 87°20'08" East, 50.00 feet to a point;
- (62) North 85°40'28" East, 43.06 feet to a point;
- (63) North 89°02'07" East, 48.48 feet to a point;
- (64) South 89°59'11" East, 15.57 feet to a point;
- (65) North 67°32'38" East, 22.66 feet to a point;
- (66) North 02°29'35" East, 28.08 feet to a point;
- (67) North 00°13'52" East, 29.04 feet to a point;
- (68) North 67°39'40" West, 30.47 feet to a point;
- (69) North 74°43'25" West, 58.56 feet to a point;
- (70) North 73°23'23" West, 45.28 feet to a point;
- (71) South 86°37'31" West, 74.43 feet to a point;

- (72) North 69°28'00" West, 40.10 feet to a point;
- (73) North 84°38'33" West, 45.92 feet to a point;
- (74) North 86°09'04" West, 59.74 feet to a point;
- (75) North 79°31'57" West, 49.82 feet to a point;
- (76) South 68°16'23" West, 53.48 feet to a point on the east line of Calfee Road (60-foot-right-of-way) recorded in Volume 632, Page 251 and Volume 640, Page 139, both of the Montgomery County Deed Records;
- (77) THENCE North 11°11'22" East, 229.43 feet along the east line of said Calfee Road to a 1/2-inch iron rod found, being the southwest corner of the aforementioned 23.419-acre tract;
- THENCE in a northerly direction along the common line of said Calfee Road and said 23.419-acre tract, the following three (3) courses and distances:
- (78) North 21°10'57" East, 89.92 feet to a PK Nail found;
- (79) North 51°27'01" East, 103.82 feet to a 5/8-inch iron rod found;
- (80) North 12°47'09" East, 328.16 feet to a point on the southwest corner of League Line Road (60-foot-right-of-way) recorded in Volume 825, Page 102 and Volume 1045, Page 571, both of the Montgomery County Deed Records from which a 1/2-inch iron rod with cap stamped "Jeff Mason RPLS 4839" found for the most westerly northwest corner of said 23.939-acre tract recorded under Montgomery County Clerk's File No. 2008084850 of the Official Public Records of Real Property known North 12°47'08" East, 123.02 feet;
- (81) THENCE South 76°39'07" East, at 94.85 feet passing a PK Nail found for the corner of said 23.838-acre tract, and continuing in all 1082.79 feet, along the south line of said League Line Road same as said 23.419-acre tract, to a 5/8-inch iron rod found;
- (82) THENCE South 77°19'32" East, 980.27 feet, continuing along the north line of said 23.419-acre tract same as south line of League Line Road, to a 5/8-inch iron rod found, being the northeast corner of said 23.419-acre tract and on the west line of the remainder of a called 90.033-acre tract (Tract 3) recorded under Montgomery County Clerk's File No. 8508573 of the Official Public Records of Real Property;
- (83) THENCE South 12°08'43" West, along the common line of said remainder tract and said 23.419-acre tract, at 484.50 feet passing a 5/8-inch iron rod found, and continuing in all 485.18 feet to a 5/8-inch iron rod with cap stamped "E.H.R.B.A. 713-784-4500" set on the south line of said remainder tract, also being on the north line of a called 121.838-acre tract recorded in Volume 488, Page 131 of the Montgomery County Deed Records and the north line of aforementioned 23.43-acre tract;
- (84) THENCE South 77°02'10" East, 2149.46 feet along the common line of said remainder tract, said 121.838-acre tract and said 23.43-acre tract, to an iron strap found on the east line of Longmire Road, being the northeast corner of said 121.838-acre tract and said 23.43-acre tract and the northwest corner of a called 99.75-acre tract, recorded under Montgomery County Clerk's File No. 9881354 of the Official Public Records of Real Property;
- (85) THENCE South 12°12'48" West, along the common line of said 121.838-acre tract, said 23.43-acre tract, said Longmire Road, and Longmire Way, said 99.75-acre tract, aforementioned 33.861-acre tract, and aforementioned 37.564-acre tract, at 428.83 feet passing a 1/2-inch iron found for the common east corner said 23.43-acre tract, and said 33.861-acre tract, at 1074.23 feet passing a 1/2-inch iron rod found for the common east corner of said 33.861-acre tract and said 37.564-acre tract and continuing in all 1791.25 feet to a PK Nail found for the southeast corner of said 37.564-acre tract and the northeast corner of a called 28.5516-acre tract recorded under Montgomery County Clerk's File No. 2004020900 of the Official Public Records of Real Property;

- (86) THENCE North  $77^{\circ}53'45''$  West, 2280.38 feet, along the common line of said 37.564-acre tract and said 26.5516-acre tract, to a 1/2-inch iron rod found for the common west corner of said 37.564-acre tract and said 26.5516-acre tract, being on the east line of aforementioned 321.470-acre tract;
- (87) THENCE South  $11^{\circ}58'58''$  West, 507.48 feet along the common line of said 26.5516-acre tract and said 321.470-acre tract, to a 3/4-inch iron pipe found for the southwest corner of said 26.5516-acre tract and the northwest corner of The Estates of Longmire on Lake Conroe, plat of which is recorded in Cabinet H, Sheets 928, 93A, 93B, and 94A of the Montgomery County Map Records;
- (88) THENCE South  $11^{\circ}12'47''$  West, 1416.70 feet, along the common line of said 321.470-acre tract and said The Estates of Longmire on Lake Conroe, to a fence corner on the north line of the aforementioned Longmire Way, being on the arc of a non-tangent curve to the right;
- THENCE in a westerly direction, along the north line of said Longmire Way, the following six (6) courses and distances:
- (89) Along the arc of said curve to the right having a radius of 1990.56 feet, a central angle of  $05^{\circ}37'51''$ , an arc length of 195.63 feet, and a chord bearing North  $74^{\circ}33'58''$  West, 195.93 feet to a 5/8-inch iron rod found at a point of reverse curvature;
- (90) Along the arc of said curve to the left having a radius of 824.29 feet, a central angle of  $14^{\circ}21'06''$ , an arc length of 206.47 feet, and a chord bearing North  $78^{\circ}55'35''$  West, 205.93 feet to a 5/8-inch iron rod found at a point of reverse curvature;
- (91) Along the arc of said curve to the right having a radius of 1499.91 feet, a central angle of  $07^{\circ}28'46''$ , an arc length of 185.80 feet, and a chord bearing North  $82^{\circ}21'44''$  West, 195.66 feet to a 5/8-inch iron rod found;
- (92) North  $78^{\circ}37'21''$  West, 386.86 feet to a 1/2-inch iron rod found at the beginning of a curve to the left;
- (93) Along the arc of said curve to the left having a radius of 2711.89 feet, a central angle of  $04^{\circ}16'15''$ , an arc length of 202.14 feet, and a chord bearing North  $80^{\circ}45'28''$  West, 202.09 feet to a 1/2-inch iron rod found at a point of reverse curvature;
- (94) Along the arc of said curve to the right having a radius of 1997.82 feet, a central angle of  $05^{\circ}38'44''$ , an arc length of 196.85 feet, and a chord bearing North  $80^{\circ}04'13''$  West, 196.77 feet to the POINT OF BEGINNING, containing a gross acreage of 293.49 acres of land.

EDWINSTER, HINSHAW, ROSS AND ASSOCIATES, INC.

Piotr A. Dabiski, R.P.L.S.  
Texas Registration No. 5902  
10853 Westoffice Drive  
Houston, Texas 77042  
713-784-4500



Date Jan 27, 2008  
Job No. 871-016-08  
File No. A:\2007\071-016-08\doc\technical\dwg\303.43.mxd

## EXHIBIT B

### CONSENT CONDITIONS

(a) The purposes for which the district may issue bonds are limited to the purposes of the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

- (1) provide a water supply for municipal uses, domestic uses and commercial purposes;
- (2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state;
- (3) gather, conduct, divert and control local storm water or other local harmful excesses of water in the district;
- (4) exercise road powers and authority pursuant to applicable law and Chapter 54 of the Texas Water Code, as amended;
- (5) finance, develop and maintain recreational facilities for the people of the district if and as allowed by applicable law;
- (6) provide such other facilities, systems, plants and enterprises as shall be consonant with the purposes for which the district is created and permitted under state law; and
- (7) the payment of organization expenses, operation expenses during construction and interest during construction.

(b) The district may, in addition, issue refunding bonds subject to the provisions of City of Comroe Ordinance No. 1381-97 dated March 3, 1997.

(c) All bonds of the district shall be subject to the following requirements:

- (1) the terms of the bonds must expressly provide that the district reserves the right to redeem the bonds without premium on any interest payment date subsequent to the fifteenth (15<sup>th</sup>) anniversary of the date of issuance;
- (2) public bids shall be taken on the sale of all bonds;
- (3) no bonds, other than refunding bonds, may be sold for less than 95% of par;
- (4) the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, may

not exceed two percent (2%) above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given and bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given; and

- (5) the resolution or order authorizing the issuance of the district's bonds must contain a provision that any pledge of the revenues from the operation of the district's utility facilities to the payment of debt service will terminate when and if the city takes over the assets and assumes all of the obligations of the district.

(d) No land may be added or annexed to the district until the City of Conroe has given its written consent by resolution of the City Council to such addition or annexation.

(e) Plans and specifications for the construction of any facilities financed in whole or in part with bond proceeds or any water, sanitary sewer, drainage or related facilities that are intended to become the property of district must be submitted to the director of community development of the City of Conroe and approved prior to the commencement of construction. All water wells, water metres, all valves, pipes and appurtenances installed or used within the district shall conform to the specifications of the City of Conroe. All water service lines and sewer service lines, lift stations, sewage treatment facilities, and appurtenances thereto, installed or used within the district shall comply with the City of Conroe's standard plans and specifications. Prior to the construction of such facilities the district, or its engineer, shall give written notice by registered or certified mail to the City's director of community development, stating the date that such construction will be commenced. The construction of the district's water, sanitary sewer and drainage facilities shall be in accordance with the approved plans and specifications and with applicable standards and specifications of the City of Conroe, and during the progress of the construction and installation of such facilities, the City of Conroe, or an employee thereof, shall be permitted to make periodic on-the-ground inspections.

(f) The district may not allow the owner of a tract of land to connect to the district's water or wastewater system unless such tract is a legally subdivided lot which is a part of a recorded subdivision plat or is otherwise exempt from the subdivision requirements of both the City of Conroe and Montgomery County.

**EXHIBIT "B"**

**ORDER CREATING THE DISTRICT**

# Exhibit B

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I hereby certify that this is a true and correct copy of a  
Texas Commission on Environmental Quality document,  
which is filed in the permanent records of the Commission.  
Given under my hand and the seal of office on

*L. Susan Carter* DEC 02 2008

L. Susan Carter, Clerk  
Texas Commission on Environmental Quality

### AN ORDER GRANTING THE PETITION FOR CREATION OF MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 126 AND APPOINTING TEMPORARY DIRECTORS

A petition by David B. Hendricks and Houston Intercontinental Trade Center, L.P. (hereafter "Petitioners") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for consideration of approval of the creation of Montgomery County Municipal Utility District No. 126 (hereafter "District") pursuant to Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE Chapters 49 and 54.

The Commission, after having considered the petition, application material, and memorandum from the Executive Director dated November 4, 2008 (hereafter "Memorandum"), attached as Exhibit "B," finds that the petition for creation should be approved.

The Commission finds that the creation of the proposed District as set out in the application is feasible, practicable, and necessary, and would be a benefit to the land to be included in the proposed District.

The Commission further finds that the proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural runoff rates and drainage, water quality, or total tax assessments on all land located within the proposed District.

All of the land and property proposed may properly be included within the proposed District.

All statutory and regulatory requirements for creation of Montgomery County Municipal Utility District No. 126 have been fulfilled in accordance with TEX. WATER CODE § 54.021 and 30 TEX. ADMIN. CODE §§ 293.11-293.12.

### NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The petition for the creation of Montgomery County Municipal Utility District No. 126 is hereby granted.

2. The District is created under the terms and conditions of Article XVI, Section 59 of the TEXAS CONSTITUTION and TEX. WATER CODE Chapter 54.

3. The District shall have, and shall be subject to, all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the Commission and the general laws of the State of Texas relating to municipal utility districts, including road powers under TEX. WATER CODE § 54.234, subject to the requirements of the Commission and general laws of the State of Texas relating to the exercise of such powers.

4. The District shall be composed of the area situated wholly within Montgomery County, Texas, described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes.

5. The Memorandum dated November 4, 2008, attached as Exhibit "B," is hereby incorporated as part of this Order.

6. The persons listed in Recommendation No. 4 of the Memorandum are hereby named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

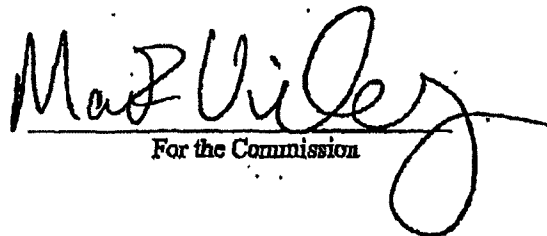
7. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration.

8. The Order shall not constitute approval or recognition of the validity of any provision in City of Conroe creation consent Ordinance No. 1848-08, effective May 22, 2008, nor any other ordinance/resolution incorporated therein by reference to the extent that such provision exceeds the authority granted to the City of Conroe by the laws of the State of Texas.

9. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.

10. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: NOV 20 2008

  
For the Commission

# Exhibit A

## METS AND BOUNDS DESCRIPTION 293.49 ACRES IN THE JAMES EDWARDS SURVEY, ABSTRACT NO. 198 AND THE EIJAH COLLARD SURVEY, ABSTRACT NO. 7 MONTGOMERY COUNTY, TEXAS

A 293.49-ACRE TRACT OF LAND SITUATED IN THE JAMES EDWARDS SURVEY, ABSTRACT NO. 198, AND THE EIJAH COLLARD SURVEY, ABSTRACT NO. 7, MONTGOMERY COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 173.1768-ACRE TRACT CONVEYED TO HOUSTON INTERNATIONAL TRADE CENTER L.P. BY WARRANTY DEED RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007112573, ALL OF THAT CALLED 23.43-ACRE TRACT CONVEYED TO DAVID HENDRICKS BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2006101070, ALL OF THAT CALLED 37.94-ACRE TRACT CONVEYED TO DAVID HENDRICKS BY SPECIAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2006061871, ALL OF THAT CALLED 33.861-ACRE TRACT CONVEYED TO HOUSTON INTERCONTINENTAL TRADE CENTER, L.P. BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007022280, AND ALL OF THAT CALLED 23.419-ACRE TRACT CONVEYED TO HOUSTON INTERNATIONAL TRADE CENTER L.P. BY WARRANTY DEED WITH VENDOR'S LIEN RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. 2007112878 ALL OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, SAID 293.49-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METS AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS:

BEGINNING at a 3/8-inch iron rod found on the north line of Longmire Way (50-foot right-of-way) recorded under Montgomery County Clerk's File No. 953-6933 of the Official Public Records of Real Property, being the southeast corner of Reserve "C" of the Rapid of Longmire on Lake Conroe Sections 1 and 2, plat of which is recorded in Cabinet I, Sheet 161 thru 163 of the Montgomery County Map Records;

- (1) THENCE North 12°45'39" East, along the east line of said Rapid of Longmire on Lake Conroe Sections 1 and 2, at 812.84 feet passing the northeast corner of said Rapid of Longmire on Lake Conroe Sections 1 and 2 and the southeast corner of Longmire on Lake Conroe Section 3, plat of which is recorded in Cabinet I, Sheet 59 thru 63 of the Montgomery County Map Records, and continuing in all 1293.88 feet to a 3/8-inch iron rod found for the northeast corner of said Longmire on Lake Conroe Section 3;
- (2) THENCE North 77°12'18" West, 161.63 feet, along the north line of said Longmire on Lake Conroe Section 3, to a 3/8-inch iron rod with cap stamped "E.H.R.S.A. 713-784-4500" set for an interior corner of said Longmire on Lake Conroe Section 3;
- (3) THENCE North 11°56'28" East, 893.74 feet, along an interior line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod found for the northeast corner of Reserve "D" of said Longmire on Lake Conroe Section 3, being on the 201-foot contour line;

THENCE along the 201-foot contour line, the following Rby (SD) courses and distances:

- (4) South 67°23'59" East, 33.75 feet to a point;
- (5) North 60°22'00" East, 14.06 feet to a point;
- (6) South 88°33'51" East, 14.40 feet to a point;
- (7) South 44°41'08" East, 14.73 feet to a point;
- (8) South 25°42'16" East, 23.63 feet to a point;
- (9) South 21°31'26" East, 48.80 feet to a point;
- (10) South 24°18'53" East, 36.85 feet to a point;

- (11) South 23°02'23" East, 43.48 feet to a point;
- (12) South 32°41'37" East, 41.58 feet to a point;
- (13) South 39°04'34" East, 23.02 feet to a point;
- (14) South 43°05'41" East, 23.55 feet to a point;
- (15) South 58°57'44" East, 22.50 feet to a point;
- (16) North 62°41'04" East, 21.09 feet to a point;
- (17) North 32°09'28" East, 44.39 feet to a point;
- (18) North 10°10'15" West, 35.41 feet to a point;
- (19) North 09°26'25" West, 45.54 feet to a point;
- (20) North 15°23'27" East, 43.39 feet to a point;
- (21) North 11°14'01" East, 48.40 feet to a point;
- (22) North 13°00'48" East, 21.25 feet to a point;
- (23) North 10°49'35" East, 30.79 feet to a point;
- (24) North 32°15'05" East, 12.24 feet to a point;
- (25) North 58°23'18" East, 11.79 feet to a point;
- (26) South 80°41'18" East, 28.94 feet to a point;
- (27) South 63°13'35" East, 31.75 feet to a point;
- (28) South 56°59'25" East, 57.54 feet to a point;
- (29) South 59°27'32" East, 34.28 feet to a point;
- (30) South 59°24'03" East, 33.57 feet to a point;
- (31) South 57°44'53" East, 37.88 feet to a point;
- (32) South 58°14'18" East, 35.57 feet to a point;
- (33) South 59°55'00" East, 46.08 feet to a point;
- (34) South 50°39'40" East, 31.89 feet to a point;
- (35) South 51°19'12" East, 21.88 feet to a point;
- (36) North 34°51'08" East, 20.55 feet to a point;
- (37) North 15°39'43" East, 23.19 feet to a point;
- (38) North 27°35'55" West, 25.08 feet to a point;
- (39) North 45°59'51" West, 31.29 feet to a point;
- (40) North 38°24'53" West, 41.42 feet to a point;
- (41) North 48°11'04" West, 42.05 feet to a point;
- (42) North 52°44'02" West, 37.78 feet to a point;

- (43) North 47°31'18" West, 58.54 feet to a point;
- (44) North 31°00'12" West, 68.46 feet to a point;
- (45) North 54°27'30" West, 63.57 feet to a point;
- (46) North 50°14'59" West, 43.08 feet to a point;
- (47) North 50°10'35" West, 63.18 feet to a point;
- (48) North 45°44'33" West, 53.82 feet to a point;
- (49) North 17°44'30" West, 55.81 feet to a point;
- (50) North 84°00'03" West, 43.57 feet to a point;
- (51) North 18°13'40" West, 51.84 feet to a point;
- (52) North 13°22'23" West, 68.20 feet to a point;
- (53) North 08°33'22" East, 38.60 feet to a point on the south line of Pebble Glen on the Lake plot of which is recorded in Cabinet N, Sheets 125 thru 128;
- (54) THENCE South 61°24'22" East, at 18.00 feet passing a 5/8-inch iron rod with cap stamped "E.H.R.S.A. 713-784-4500" set for reference, and continuing in all 848.81 feet to a 5/8-inch iron rod found for the southeast corner of said Pebble Glen on the Lake;
- (55) THENCE North 11°45'44" East, along the east line of said Pebble Glen on the Lake, at 1001.37 feet passing a 5/8-inch iron rod found for the northwest corner of said Pebble Glen on the Lake, and continuing in all 1072.89 feet to a point on the 201-foot contour line;
- THENCE along the 201-foot contour line, the following twenty-one (21) courses and distances:
- (56) South 87°34'31" East, 44.31 feet to a point;
- (57) North 85°18'39" East, 103.78 feet to a point;
- (58) South 87°41'11" East, 41.82 feet to a point;
- (59) South 89°57'21" East, 52.34 feet to a point;
- (60) South 89°58'25" East, 51.16 feet to a point;
- (61) South 87°20'08" East, 50.00 feet to a point;
- (62) North 83°40'28" East, 43.08 feet to a point;
- (63) North 84°02'07" East, 48.48 feet to a point;
- (64) South 89°53'11" East, 15.57 feet to a point;
- (65) North 67°52'38" East, 22.66 feet to a point;
- (66) North 02°29'35" East, 28.08 feet to a point;
- (67) North 00°13'32" East, 29.04 feet to a point;
- (68) North 67°39'40" West, 30.47 feet to a point;
- (69) North 74°43'23" West, 56.56 feet to a point;
- (70) North 78°25'25" West, 45.28 feet to a point;
- (71) South 88°37'31" West, 74.43 feet to a point;

- (72) North 89°28'00" West, 40.10 feet to a point;
- (73) North 84°38'33" West, 45.82 feet to a point;
- (74) North 86°09'04" West, 59.74 feet to a point;
- (75) North 79°51'57" West, 49.82 feet to a point;
- (76) South 68°18'23" West, 33.48 feet to a point on the west line of Calfee Road (60-foot right-of-way) recorded in Volume 632, Page 281 and Volume 640, Page 139, both of the Montgomery County Deed Records;
- (77) THENCE North 11°11'22" East, 229.43 feet along the east line of said Calfee Road to a 1/2-inch iron rod found, being the southwest corner of the aforementioned 23.419-acre tract;
- THENCE in a northerly direction along the common line of said Calfee Road and said 23.419-acre tract, the following three (3) courses and distances:
- (78) North 21°10'57" East, 89.92 feet to a PK Nail found;
- (79) North 51°22'01" East, 105.82 feet to a 5/8-inch iron rod found;
- (80) North 12°47'09" East, 328.16 feet to a point on the southwest corner of League Line Road (60-foot right-of-way) recorded in Volume 825, Page 162 and Volume 1048, Page 571, both of the Montgomery County Deed Records from which a 1/2-inch iron rod with cap stamped "Jed Moon KPLS 4539" found for the most westerly northwest corner of said 75.938-acre tract recorded under Montgomery County Clerk's File No. 2003084850 of the Official Public Records of Real Property bears North 12°47'09" East, 133.02 feet;
- (81) THENCE South 78°38'07" East, at 98.83 feet passing a PK Nail found for the corner of said 23.838-acre tract, and continuing in all 1082.79 feet along the south line of said League Line Road seen as said 23.419-acre tract, to a 5/8-inch iron rod found;
- (82) THENCE South 77°19'32" East, 980.27 feet, continuing along the north line of said 23.419-acre tract seen as south line of League Line Road, to a 5/8-inch iron rod found, being the northeast corner of said 23.419-acre tract and on the west line of the remainder of a called 90.833-acre tract (Tract 3) recorded under Montgomery County Clerk's File No. 9508872 of the Official Public Records of Real Property;
- (83) THENCE South 12°09'49" West, along the common line of said remainder tract and said 23.419-acre tract, at 484.50 feet passing a 5/8-inch iron rod found, and continuing in all 483.18 feet to a 5/8-inch iron rod with cap stamped "E.H.R. & A. 713-784-6500" set on the south line of said remainder tract, also being on the north line of a called 121.838-acre tract recorded in Volume 438, Page 131 of the Montgomery County Deed Records and the north line of aforementioned 23.43-acre tract;
- (84) THENCE South 77°02'20" East, 2149.46 feet along the common line of said remainder tract, said 121.838-acre tract and said 23.43-acre tract, to an iron strap found on the west line of League Line Road, being the northwest corner of said 121.838-acre tract and said 23.43-acre tract and the northwest corner of a called 89.79-acre tract recorded under Montgomery County Clerk's File No. 8891954 of the Official Public Records of Real Property;
- (85) THENCE South 12°12'48" West, along the common line of said 121.838-acre tract, said 23.43-acre tract, said League Line Road, and Longline Way, said 99.75-acre tract, aforementioned 23.861-acre tract, and aforementioned 37.384-acre tract, at 428.83 feet passing a 1/2-inch iron found for the common east corner said 23.43-acre tract, and said 33.861-acre tract, at 1074.23 feet passing a 1/2-inch iron rod found for the common east corner of said 33.861-acre tract and said 37.384-acre tract, and continuing in all 1791.25 feet to a PK Nail found for the southeast corner of said 37.384-acre tract and the northeast corner of a called 28.3516-acre tract recorded under Montgomery County Clerk's File No. 2004020900 of the Official Public Records of Real Property;

- (86) THENCE North  $77^{\circ}31'49''$  West, 2280.36 feet, along the common line of said 37,564-acre tract and said 26,3516-acre tract, to a 1/2-inch iron rod found for the common west corner of said 37,564-acre tract and said 26,3516-acre tract, being on the east line of aforementioned 321,470-acre tract;
- (87) THENCE South  $11^{\circ}58'38''$  West, 507.48 feet, along the common line of said 26,3516-acre tract and said 321,470-acre tract, to a 3/4-inch iron pipe found for the southwest corner of said 26,3516-acre tract and the northwest corner of The Estate of Longmire on Lake Canoe, plat of which is recorded in Cabinet H, Sheets 92B, 93A, 93B, and 94A of the Montgomery County Map Records;
- (88) THENCE South  $11^{\circ}12'47''$  West, 1416.78 feet, along the common line of said 321,470-acre tract and said The Estate of Longmire on Lake Canoe, to a fence corner on the north line of the aforementioned Longmire Way, being on the arc of a non-tangent curve to the right;
- THENCE in a westerly direction, along the north line of said Longmire Way, the following str(8) corners and distances:
- (89) Along the arc of said curve to the right having a radius of 1990.56 feet, a central angle of  $05^{\circ}37'51''$ , an arc length of 188.63 feet, and a chord bearing North  $74^{\circ}33'58''$  West, 195.55 feet to a 5/8-inch iron rod found at a point of reverse curvature;
- (90) Along the arc of said curve to the left having a radius of 824.29 feet, a central angle of  $14^{\circ}21'06''$ , an arc length of 306.47 feet, and a chord bearing North  $78^{\circ}59'15''$  West, 208.93 feet to a 5/8-inch iron rod found at a point of reverse curvature;
- (91) Along the arc of said curve to the right having a radius of 1499.81 feet, a central angle of  $07^{\circ}28'46''$ , an arc length of 183.80 feet, and a chord bearing North  $82^{\circ}21'44''$  West, 199.66 feet to a 5/8-inch iron rod found;
- (92) North  $78^{\circ}37'21''$  West, 388.86 feet to a 1/2-inch iron rod found at the beginning of a curve to the left;
- (93) Along the arc of said curve to the left having a radius of 2711.89 feet, a central angle of  $04^{\circ}16'15''$ , an arc length of 202.14 feet, and a chord bearing North  $80^{\circ}45'28''$  West, 202.08 feet to a 1/2-inch iron rod found at a point of reverse curvature;
- (94) Along the arc of said curve to the right having a radius of 1897.82 feet, a central angle of  $05^{\circ}38'44''$ , an arc length of 186.88 feet, and a chord bearing North  $80^{\circ}04'13''$  West, 196.77 feet to the POINT OF BEGINNING, containing a gross acreage of 293.49 acres of land.

EDWINSTER, HINCHMAN, RUSS AND ASSOCIATES, INC.

Flor A. Debedi, R.P.L.S.  
Texas Registration No. 5902  
10333 Westoffice Drive  
Houston, Texas 77042  
713-784-4900



Date: Jan 27, 2008  
Job No: 071-018-00  
File No: 2430821071-018-00\doc\text\final\fsr\201418\doc

396.49 Acres  
James Roberts Survey, A-180  
High Colored Survey, A-7  
Page 3 of 3

# **Texas Commission on Environmental Quality**

## **TECHNICAL MEMORANDUM**

**To:** Todd Chenoweth, Director  
Water Supply Division

**Date:** November 4, 2008

**Thru:** *RN/r* Doug Holcomb, P.E., Manager, Utilities and Districts Section  
*RN/r* Alex A. (Skip) Ferris, P.E., Leader, Districts Review Team

**From:** Districts Review Team

**Subject:** Petition by David B. Hendricks, individual, and Houston Intercontinental Trade Center, L.P., for Creation of Montgomery County Municipal Utility District No. 126; Pursuant to Texas Water Code Chapters 49 and 54.  
TCEQ Internal Control No. 07082008-D02 (TC)  
CN: 603385923 RN: 105577530

### **A. GENERAL INFORMATION**

The Commission received a petition within the application requesting approval for the creation of Montgomery County Municipal Utility District No. 126 (District). The petition was signed by David B. Hendricks, individual, and by Michael P. Barsi, president of Revista, Inc, general partner of Houston Intercontinental Trade Center, L.P. (Petitioners). According to the petition, the Petitioners are the owners of a majority in value of the land in the proposed District, and that there are two lien holders; Sterling Bank, and Benchmark Bank, on the property to be included in the proposed District. By joinder to the petition, the lien holder's consent to the creation of the proposed District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

#### **Location and Access**

The proposed District is located in central Montgomery County, three miles west of Interstate Highway 45 on the east side of Lake Conroe, and approximately six miles northwest of the downtown portion of the City of Conroe (City). Access to the proposed District is provided from IH-45 to League Line Road. The petition states that all of the proposed District is located within the extraterritorial jurisdiction (ETJ) of the City, and is in the process of being annexed into the corporate limits of the City.

#### **Meters and Bounds Description**

The proposed District contains one tract of land totaling 293.49 acres. The metes and bounds description of the proposed District has been checked by the Commission's staff and has been found to form an acceptable closure.

Exhibit "B"

Todd Chenoweth, Director

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#### City Consent

By Ordinance No. 1848-08, effective May 22, 2008, the City of Conroe gave its consent to the petition for creation of the proposed District. Accordingly, the requirements of Texas Water Code Section 54.016 and Texas Local Government Code Section 42.042 have been satisfied. The City consent recognizes the proposed District providing water, wastewater, drainage, recreational, and road facilities.

#### Statements of Filing Petition

Evidence of filing the petition with the Montgomery County clerk's office and the Commission's Houston regional office has been provided.

#### Type of Project

The proposed District will be considered a "developer project" as defined by 30 TAC Section 293.44(a). Therefore, developer cost participation in accordance with 30 TAC Section 293.47 will be required.

#### Developer Qualifications

Application material indicates that the Petitioners have completed commercial, mixed use, and single-family residential communities in the greater Houston area for over 30 years. The material also indicates that the Petitioners are currently involved in several projects at various stages of development.

#### Appraisal District Certificate

By certificate dated March 6, 2008, the Montgomery Central Appraisal District has certified that the tax rolls indicate that David Hendricks and Houston Intercontinental Trade Center L.P. are the owners of the property in the proposed District. Documents provided support that the Petitioners own a majority in value of the land in the proposed District.

#### Temporary Director Affidavits

The Commission has received affidavits for Commission consideration of the appointment of temporary directors for the following:

Irving A. Wolf  
Adam H. Soffar

Gary Calfee  
Donald B. Robinowitz

Robert L. Tompkins

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District as each (1) is at least 18 years old; (2) is a resident of the state of Texas; and (3) either owns land subject to taxation within the proposed District, or is a qualified voter within the proposed District.

Todd Chenoweth, Director

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Notice Requirements

Proper notice of the application was published on August 25 and September 1, 2008, in the *Comroe Courier*, a newspaper regularly published or circulated in Montgomery County, the county in which the district is proposed to be located. Proper notice of the application was posted on August 25, 2008, on the bulletin board used for posting legal notices in Montgomery County. Accordingly, the notice requirements of 30 TAC Section 293.12(b) have been satisfied.

**B. ENGINEERING ANALYSIS**

The creation engineering report indicates the following:

Availability of Comparable Service

The proposed District will be annexed by the City. Pursuant to the terms of the Utility Services and Development Agreement (Agreement), the City will provide water supply and wastewater treatment services, and trunk lines to the proposed District, at no cost to the proposed District. The proposed District will construct, own, and operate its own internal water, wastewater, and drainage systems.

Water Supply

Pursuant to the Agreement, the City will provide the proposed District with its water supply at no cost to the proposed District.

Water Distribution

The water distribution system for full development will consist of 54,210 linear feet (lf) of 4 to 12-inch diameter lines that will connect to an existing City line. Isolation valves and flushing valves will be provided at required intervals.

Wastewater Treatment

The wastewater generated by the development of the proposed District will be conveyed to a wastewater treatment facility constructed, maintained, and operated by the City at no cost to the proposed District, pursuant to the Agreement.

Wastewater Collection

The internal wastewater collection system for full development of the proposed District will consist of 43,380 (lf) of 8 to 12-inch diameter gravity lines, five lift stations, and approximately 9,200 lf of 4 to 10-inch diameter force main that discharge into an existing 24-inch City wastewater line.

Todd Chenoweth, Director

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### Storm Water Drainage

The storm water runoff within the proposed District will be directed through curb inlets to 31,570 lf of 24 to 66-inch diameter reinforced concrete storm sewers. For the 78-acre eastern portion of the proposed District, collected storm water will drain into detention facilities and ultimately through an existing development. The remaining acreage will drain into Lake Conroe through a series of drainage channels and reinforced concrete pipe.

### Topography

The proposed District has elevations ranging from 202 to 330 feet above mean sea level. The tract is heavily wooded with rolling terrain, and generally drains westerly toward Lake Conroe.

### Floodplain

Federal Emergency Management Agency Flood Insurance Rate Map Panel No. 48339C0359F dated December 19, 1996, indicates that no acreage of the proposed District is inside the 100 year flood plain.

### Impact on Natural Resources

The creation of the proposed District is expected to have no unreasonable effect on land elevation, groundwater levels, recharge capability, subsidence, natural runoff rates and drainage, or water quality.

## C. SUMMARY OF COSTS

### - WATER, WASTEWATER, AND DRAINAGE

<u>Construction Costs</u>	<u>District's Share<sup>(1)</sup></u>
<b>A. Developer Contribution Items</b>	
1. Water distribution system	\$ 1,745,680
2. Wastewater collection	3,390,930
3. Lift stations (4) - internal	650,000
4. Drainage collection facilities	3,319,830
5. Drainage and detention	1,064,040
6. Pollution Prevention Plan	660,000
7. Clearing & grubbing	574,700
8. Contingencies (10% of Item nos. 1-7)	1,140,518
9. Engineering (16% of Item nos. 1-8)	<u>2,007,312</u>
Total Developer Contribution Items	\$ 14,553,010
<b>B. District Items</b>	
1. Lift station - main	\$ 375,000
2. Contingencies (10% of Item no.1)	37,500
3. Engineering (16% of Items nos.1 & 2)	66,000
4. Land costs	
a. Lift station site (0.3 acres x \$30,000/acre)	9,000

Todd Chenoweth, Director

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b. Detention site (46.8 acres x \$30,000/acre)	1,404,000
Total District Items	1,891,500
TOTAL CONSTRUCTION COSTS (67.46% of BIR)	\$ 16,444,510
<u>Non-Construction Costs</u>	
A. Legal Fees (3%)	\$ 731,250
B. Fiscal Agent Fees (2%)	487,500
C. Interest	
1. Capitalized Interest (24 months @ 6%)	2,925,000
2. Developer Interest (24 months @ 6%)	1,973,341
D. Bond Discount (3%)	731,250
E. Creation Costs	75,000
F. Operating Expenses	300,000
G. Bond Issuance Expenses	301,836
H. Bond Application Report Costs	320,000
I. Attorney General Fee (0.1% of BIR)	24,375
J. TCEQ Bond Issuance Fee (0.25%)	60,938
TOTAL NONCONSTRUCTION COSTS	\$ 7,930,490
TOTAL BOND ISSUE REQUIREMENT	\$ 24,375,000

Note: (1) Assumes 100% funding of anticipated developer contribution items.

Eligibility of costs for District funding and 30% developer contribution requirements may be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

#### -ROADWAYS

<u>Construction Costs</u>	<u>District's Share<sup>(1)</sup></u>
A. Developer Contribution Items	
1. Major Roadways	\$ 1,663,377
2. Landscaping thoroughfares and collector streets	220,000
3. Contingencies (10% of Item nos. 1 & 2)	188,338
4. Engineering (16% of Item nos. 1 - 3)	331,474
Total Developer Contribution Items	\$ 2,403,189
B. District Items	
None	
TOTAL CONSTRUCTION COSTS (71.95% of BIR)	\$ 2,403,189
<u>Non-Construction Costs</u>	
A. Legal Fees (3%)	\$ 100,200
B. Fiscal Agent Fees (2%)	66,800
C. Interest	
1. Capitalized Interest (24 months @ 6%)	400,800
2. Developer Interest (24 months @ 6%)	288,383
D. Operating cost	50,000

Todd Chenoweth, Director

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E. Miscellaneous Expenses	30,628
TOTAL NONCONSTRUCTION COSTS	\$ 936,811
TOTAL BOND ISSUE REQUIREMENT	\$ 3,340,000

Note: (1) Assumes 100% funding of anticipated developer contribution items.  
Eligibility of costs for District funding and 30% developer contribution requirements may be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

**- RECREATION**

<u>Construction Costs</u>	<u>District's Share<sup>(1)</sup></u>
A. Developer Contribution Items	
1. Amenity park plan	\$ 725,000
2. Contingencies (10% of Item no. 1)	72,500
3. Engineering (15% of Items 1 & 2)	119,625
Total Developer Contribution Items	\$ 917,125
B. District Items	
None	
TOTAL CONSTRUCTION COSTS (70.0% of BIR)	\$ 917,125
<u>Non-Construction Costs</u>	
A. Legal Fees (3%)	\$ 39,300
B. Fiscal Agent Fees (2%)	26,200
C. Interest	
Capitalized Interest (24 months @ 6%)	157,200
D. Bond Discount (3%)	39,300
E. Bond Issuance Expenses	36,290
F. Operating costs	50,000
G. Bond Application Report Costs	40,000
H. Attorney General Fee (0.10% of BIR)	1,310
I. TCBEQ Bond Issuance Fee (0.25%)	3,275
TOTAL NONCONSTRUCTION COSTS	\$ 392,875
TOTAL BOND ISSUE REQUIREMENT	\$ 1,310,000

Note: (1) Assumes 100% funding of anticipated developer contribution items.

Eligibility of costs for District funding will be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

Todd Chenoweth, Director

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#### **D. ECONOMIC ANALYSIS**

##### **Land Use**

The land use for the proposed District is projected in the following table:

<u>Development</u>	<u>Acres</u>	<u>ESFCs</u>
Single-Family Residential	219.40	771
Recreation Center	1.80	6
Park, Recreation & Open Space	25.19	0
Lift station	0.30	0
Lake and Water Quality Detention	<u>46.80</u>	<u>0</u>
Total	293.49	777

##### **Market Study**

A market study, prepared by MetroStudy, has been submitted in support of the creation of the proposed District, and shows there is a market demand for the District. The market study indicates that the proposed District will contain 771 single-family homes with prices averaging from \$225,000 to \$360,000 on 60 to 80-foot lots, and expected to be absorbed at a rate of 85 to 160 units per year. The proposed District will also contain a recreation center.

##### **Project Financing**

The estimated total assessed valuation of the proposed District at completion is as follows:

<u>Single-Family Lot Width</u>	<u># of Units</u>	<u>Average Unit Value</u>	<u>Total Value at Build-out</u>
60 - 80 foot	771 homes	\$ 304,838	\$ 235,030,000
Total			\$ 235,030,000

Considering an estimated bond issue requirement of \$24,375,000 (assuming 100% financing) for utilities, \$3,340,000 (assuming 100% financing) for roads, and \$1,310,000 (assuming 100% financing) for recreational facilities, a coupon bond interest rate of 6.0%, and a 25-year bond life, the average annual debt service requirement for utilities, roads, and recreational facilities would be approximately \$1,906,776, \$261,277 and \$102,477, respectively. Assuming a 95% collection rate and an ultimate taxable assessed valuation of \$235,030,000, a tax rate of about \$0.85 per \$100 AV for utilities, \$0.12 per \$100 AV for roads, and \$0.05 per \$100 AV for recreation facilities, respectively, would be necessary to meet the annual debt service requirements.