



## Filing Receipt

**Received - 2022-03-08 10:49:35 AM**

**Control Number - 51614**

**ItemNumber - 23**

**CONTRACT FOR THE DEVELOPMENT AND PURCHASE OF PUBLIC  
DRINKING WATER AND SANITARY  
SEWER FACILITIES IN HARRIS COUNTY**

K8H VENTURES, LLC (“DEVELOPER”), AND EAST HOUSTON UTILITIES, INC (“EHU”), ENTER INTO THE FOLLOWING AGREEMENT (“CONTRACT”) FOR THE DEVELOPMENT AND PURCHASE OF A PUBLIC UTILITY SYSTEM IN THE PROPOSED PINEY WOODS MANUFACTURED HOME COMMUNITY IN HARRIS COUNTY, TEXAS, AS HEREIN PROVIDED.

WITNESSED:

WHEREAS, Developer requests a state-certified retail public water and sewer utility (hereinafter referred to as the “Utility System”) to serve Developer’s Piney Woods Manufactured Home Community located northeast of Crosby in Harris County, Texas comprised of ~400 individual manufactured home spaces/lots (the “Development”), being developed within the real property described in Exhibit “A” attached hereto and made a part hereof (the “Property”), which Utility System includes (i) water production facilities and related improvements (“Production Facilities”) and wastewater treatment plants and related improvements (“Wastewater Treatment Facilities”; the Production Facilities and Wastewater Treatment Facilities being collectively referred to as the “Plants”), both as further described on Exhibit “B-1” attached hereto and incorporated herein by reference, and (ii) water mains and sanitary sewer mains, lift stations and related improvements as further described on Exhibit “B-2” attached hereto and incorporated herein by reference (the “Utility System Mains”); and

WHEREAS, EHU is a state-certified water and sewer utility; and

WHEREAS, Developer desires to lease to EHU, in accordance with the terms hereof, certain real property and easements for the purpose of locating and operating the Plants (the “Plant Sites”). The Plant Sites are described and/or depicted on Exhibit “C” attached hereto and incorporated herein by reference. As used herein, the term “Primary Sites” shall mean the Property including the Plant Sites, Plants, Utility System Mains, and Easements described in this Agreement. Additionally, the term “EHU Property” shall mean the Plant Sites, Plants, Utility System Mains, and Easements described in this Agreement; and

WHEREAS, Developer desires to lease and convey to EHU fifty percent (50%) of Developer’s right, title and interest in and to the groundwater in, on and under the Property (the “Groundwater”). Developer has made no prior conveyance of the Groundwater to any other party; and

WHEREAS, EHU has agreed to construct the Plants under terms, provisions, and conditions and for consideration less profitable than EHU would charge other third parties in exchange for the conveyance of the Plant Sites to EHU and conditioned upon Developer’s agreement to sell the Utility System Mains to EHU on the terms, provisions and conditions provided herein; and

WHEREAS, under the provisions of Chapter 13 of the Texas Water Code, the holder of a CCN may operate the Utility System for compensation and serve the consuming public with retail public utility services (water/sewer) through those facilities under the terms and conditions of a state-approved tariff(s); and

WHEREAS, after construction Developer will own the Utility System Mains, but shall not have a certificate of convenience and necessity ("CCN") and approved water and sewer utility tariffs to operate same for the Development; and

WHEREAS, EHU owns and operates a state certified retail public water utility/public drinking system (CCN #12042) and a state-permitted retail public sewer utility (CCN #12042) and desires to purchase the Utility System Mains and amend its CCNs to include the entirety of the Property; and

WHEREAS, EHU desires to purchase the Utility System Mains from Developer pursuant to the terms as set forth in this Agreement; and

WHEREAS, Developer and EHU acknowledge their intention to fully comply with the provisions of the Texas Water Code (said statute hereinafter referred to as the "Code") and the corresponding administrative rules and Texas Commission on Environmental Quality/Public Utility Commission of Texas (hereinafter referred to as the "Agency") regulations concerning the subject matter of this Contract; and

WHEREAS, Developer and EHU enter into this Contract wherein Developer will lease the Plant Sites, Utility System Mains, and Groundwater to EHU subject to such approvals and contingencies as are recited herein.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES COVENANT, STIPULATE AND DECLARE AS FOLLOWS:

## **ARTICLE 1 UTILITY SYSTEM MAINS AND UTILITY SYSTEM**

(1) Developer agrees to cause all of the work to be performed for the construction and installation of state approved Utility System Mains for the Development to be situated on the Property. The most current methods shall be used in constructing the Utility System Mains consistent with sound civil engineering design and construction standards, long-term durability, and minimization of future repair and maintenance costs. All work shall be done in conformance with Agency-approved plans and specifications acceptable to Developer and EHU as prepared by Developer's registered professional engineer acceptable to Developer and EHU.

(2) The final recorded plat(s) for the Development (collectively, the "Plat"), which shall be generally consistent with the preliminary plat of the Property attached hereto or described on Exhibit "D", shall, upon filing in the real property records of Harris County, Texas, establish

public utility easements as necessary and/or desirable for water and sewer lines and the safe and efficient operation of the Utility System.

(3) Developer shall provide that the Plant Sites and the lift stations and other above ground facilities for the Utility System have access via perpetual recorded rights-of-way easements suitable for the construction, use, and maintenance of an all-weather access road or driveway to each such site as shown on the Plat in compliance with Agency requirements.

(4) Developer agrees to clear, drain, fill, and level all Plant Sites to, at a minimum, the grade of the Development. In no event shall the grade be less than one foot above the 100-year flood plain.

(5) In the event multiple methods are used for the creation of the utility easements and/or access easements, such easement rights shall be cumulative. All utility easement and/or access easements for the Utility System shall be in a form and width as shown on the Plat or as otherwise acceptable to EHU in its reasonable discretion (with 10 feet being the minimum acceptable width).

(6) Lease or other restrictions created by the Developer shall not be incompatible with the construction, operation and maintenance of a state approved public water/sewer utility and shall not allow private water/sewer supplies within the Development.

(7) The Plant Sites shall be as shown on the Plat. Developer shall have all property lines for the Plant Sites surveyed, staked, and identified. All water supply wells shall have recorded public water well sanitary easements with no less than 150 feet radius measured from the center of the well bore and otherwise meeting all requirements of the Agency's Public Drinking Water System Water Hygiene Rules, and shall be in substantially the same form as Exhibit "E" attached hereto and incorporated herein by reference (the "Sanitary Control Easements"). All Wastewater Treatment Facilities shall have recorded 150-foot easements in the form and content necessary to satisfy the Agency's Buffer Zone Easement requirements.

(8) In connection with Developer's development of the Development, Developer shall provide 3 phase, 460-volt electric utility service to the various Utility System sites as reasonably required by EHU.

## **ARTICLE 2 PROPERTY TO BE CONVEYED IN LEASE**

The property to be conveyed by Developer to EHU under this Contract consists of:

- (1) The Plant Sites.
- (2) The Utility System Mains, to be fully completed and functioning in accordance with all applicable laws.
- (3) Fifty percent (50%) of Developer's right, title and interest in and to the Groundwater, with rights of reversion in the event of a termination of water services or a termination of this contract.

(4) All other personal property owned by Developer which is part of the Utility System, including but not limited to, production equipment, chemical treatment equipment, pumps, tanks, distribution and transmission lines, meters, collection lines, lift stations, manholes, disposals pipes, valves, and controls.

(5) The Sanitary Control Easement(s), in conformance with Agency regulations (TAC 30 Chapter 290.41), around each water well which is part of the Production Facilities.

(6) The Buffer Zone Easement(s), in conformance with Agency regulations, around each Wastewater Treatment Facility.

(7) Non-exclusive public utility easements used for the construction, installation and operation of the Utility System Mains, including the water transmission and distribution lines and sewer collection and transmission lines.

(8) Perpetual recorded rights-of-way easements suitable for the construction, use, and maintenance of an all-weather access road or driveway to the Plant Sites and the lift stations and other above ground facilities as shown on the Plat.

Developer shall provide EHU with surveys or plats of the Plant Sites and Utility System Mains.

### **ARTICLE 3 CONSTRUCTION OF THE PLANTS**

(1) EHU shall be solely responsible for designing, constructing, and owning the Plants for the Utility System, in a manner and upon a timeframe that meets or exceeds the anticipated retail public utility service demands of Developer's projected population, which service demands shall be the TCEQ or PUC, as applicable, minimum design criteria and shall include standby capacity of 500 gallons for one hour for the purpose of the supply of fire flow for the Development;

(2) The Parties recognize that the Plants may, at EHU's sole discretion, be constructed in phases according to the real or projected growth and demand of the Developments and otherwise as allowed under applicable TCEQ regulatory requirements.

(3) EHU shall be solely responsible for compliance with the TCEQ requirements as they relate to the construction and operation of the Plants.

(4) Regarding the Wastewater Treatment Facilities, EHU agrees to apply to the TCEQ for a wastewater discharge permit to allow for the discharge of 74,000 gallons per day of treated effluent. Developer represents to EHU that this amount is of a sufficient volume to serve the Development based on the Parties' agreed assumption that the Development will be comprised of a cumulative total of 407 individual mobile home spaces/lots and that each space will discharge an average of 185 gallons per day. To the extent that the capacity of the Wastewater Treatment Facilities is in excess of what is needed for the Development, EHU reserves the sole right, at its discretion, to use the Wastewater Treatment Facilities to provide service to areas other than the Development.

(5) If Developer requires wastewater service for the Developments prior to the date the Wastewater Treatment Facilities become operational, EHU will provide interim waste disposal service to the Developments known as “Hold and Haul” service pursuant to the terms as set forth in this Paragraph (5). EHU agrees to collect waste subject to “Hold and Haul” under this Paragraph (5) in an on-site manhole or waste station and truck it to a permitted wastewater treatment plant for processing. If the Wastewater Treatment Facilities are not operational when the Developer requires wastewater service and the delay is due to either (i) a delay in obtaining TCEQ approval of the wastewater discharge permit, due to circumstances outside of EHU’s reasonable control or (ii) Force Majeure (as defined in Section 14.10 of this Contract), the Parties agree to share the cost of the “Hold and Haul” service. If the Wastewater Treatment Facilities are not operational when the Developer requires wastewater service and the delay is due to Developer’s failure to satisfy its requirements under this Contract, then Developer shall be responsible for paying all of the cost of the “Hold and Haul” service provided by EHU or shall otherwise provide for the provision of interim wastewater service until the Wastewater Treatment Facilities are operational.

(6) Developer warrants that there are no zoning ordinances, restrictions or other agreements affecting the Development known to Developer that would prevent or interfere with EHU’s construction of the Plants other than those stated herein. Developer further warrants that there are no deeds or other restrictions created by the Developer that are incompatible with the construction, operations and maintenance of the Utility System.

(7) Developer agrees to cooperate with and assist EHU in obtaining all required governmental permits and approvals for the Plants, their design and their construction.

(8) Developer further agrees to provide EHU with unrestricted access to all locations and aspects of the Utility System during construction of the Plants.

(9) Developer shall indemnify, defend and hold EHU and its successors and assigns harmless from and against any and all claims, losses, costs and/or expenses, obligations or liabilities of any kind (collectively a “Claim”) that may be incurred by EHU as a result of physical damage to the Plants prior to Closing, personal injury or death resulting from activities on the Primary Sites by Developer, its employees or agents, or anyone else on the Primary Sites at the direction of Developer except to the extent that the Claim is the result of a negligent or gross negligent act or omission of EHU.

(10) EHU shall indemnify, defend and hold Developer and its successors and assigns harmless from and against any and all claims, losses, costs and/or expenses, obligations or liabilities of any kind that may be incurred by Developer as a result of physical damage to the Plants after Closing, personal injury or death resulting from activities and operations of the utility hereunder, on the EHU Property by EHU, its employees or agents, or anyone else on the EHU Property at the direction of EHU, except to the extent the Claim is the result of a negligent or gross negligent act or omission of Developer.

#### **ARTICLE 4**

#### **EAST HOUSTON UTILITIES REIMBURSEMENT TO DEVELOPER**

As part of the consideration under this Contract, EHU shall pay to Developer the amount of Five Hundred Dollars (\$500.00) (the "Reimbursement Amount") for each individual manufactured home site in the Development that becomes connected to the Plants prior to the ten (10) year anniversary of the initial lot take-downs. In no case shall EHU be responsible for any such payment to Developer for any homes that become connected to the Plants following the ten (10) year anniversary following the initial lot take-downs. EHU shall make the Reimbursement Payments to Developer on a quarterly basis, as follows: within thirty (30) days following the calendar quarter, EHU shall pay Developer for each site that has become connected within the calendar quarter.

#### **ARTICLE 5**

#### **CHARGE OF RETAIL SERVICE**

The Parties agree that the water and sewer service will be provided by EHU to the individual mobile home site customers on a retail basis. EHU will charge the customers water and sewer rates according to the water and sewer tariffs in effect at the time of service. The Parties recognize those tariffs include certain regulatory pass-through fees that will be charged to the customers under the tariffs.

#### **ARTICLE 6**

#### **CONTRIBUTION IN AID OF CONSTRUCTION TO EHU**

The development is not financially feasible for EHU to undertake without some payment for contribution in aid of construction (CIAC) of the water and sewer plants by the developer(s). EHU will require, and Developer agrees to pay, a CIAC payment of Four Hundred Sixty-Two Thousand Five Hundred Dollars (\$462,500.00). The CIAC payments will be payable as follows:

- |                    |           |   |
|--------------------|-----------|---|
| (1) Installment #1 | \$115,625 | Upon ordering the tanks for the Water Plant                     |
| (2) Installment #2 | \$115,625 | At substantial completion of the Water Plant (as defined below) |
| (3) Installment #3 | \$115,625 | Upon initiation of construction of the WWTP                     |
| (4) Installment #4 | \$115,625 | Six (6) months from the date of Installment #3                  |

For purposes of this Article 6, Substantial Completion of the Water Plant is defined as completion of construction of the Water Plant to a sufficient extent that the Water Plant can provide potable water to the Development in an adequate amount for the then-existing phase of the Development, recognizing that Substantial Completion does not include the provision of power to the plant, which is a requirement of the Developer.

## **ARTICLE 7 PROPERTY**

(1) EHU and Developer shall enter into a ninety-nine (99) year lease agreement for the Property to be Conveyed as defined in ARTICLE 2.

(2) EHU and its duly authorized agents or representatives shall be entitled to enter upon the Property at all reasonable times during the term of the Contract in order to conduct engineering studies, environmental studies, soil tests, and any other inspections and/or tests that EHU may deem necessary or advisable to evaluate the Development and the Utility System; provided that in no event shall EHU interfere with the Developer's use and development of the Property as a manufactured home development or interfere with any approvals or permits required for Developer's development and/or intended use of the Property. EHU shall indemnify and hold Developer harmless from and against any and all losses, costs and/or expenses that may be incurred by Developer as a result of physical damage to the property, personal injury or death caused by any such inspections and/or tests, EHU shall repair any damage caused by EHU, its agents or representatives.

(3) Developer shall obtain, at Developer's sole cost and expense, a current survey of the Utility System properties to be conveyed to EHU under this Contract, in a form that substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Condition II Survey.

(4) Upon request by EHU, Developer shall deliver to EHU copies of all documents in Developer's possession pertaining to the development, ownership, or operation of the Utility System and related properties, including but not limited to, any existing survey(s) of the well sites; soils reports; wetlands studies; feasibility studies; environmental reports, studies, tests, data, assessments, and notices; any documentation regarding water, sanitary sewer, gas and other utilities serving the property; utility information pertaining to the property; engineering studies and plans; and ad valorem tax notices and receipts for the last two calendar years.

(5) EHU shall prepare and prosecute, at its sole cost and expense, any application necessary for Agency approval of this transaction, whether it is to amend EHU's CCN to include the Development or to file a sale-transfer-merger application. Developer shall provide reasonable support to EHU, including, but not limited to, providing all information, documents and signatures reasonably required by EHU and making its officers and employees available as witnesses in any contested hearings. Each party shall bear the cost of its own attorneys, engineers, accountants, consultants, or other agents in obtaining such Agency approval.

(6) Upon execution of this Contract, EHU shall deliver to Developer a check in the amount of Fifty and No/100 Dollars (\$50.00) (the "Independent Contract Consideration"), which amount Developer and EHU hereby acknowledge and agree has been bargained for and agreed to as consideration for Developer's execution and delivery of this Contract. The Independent Contract Consideration is in addition to and independent of any other consideration or payment provided for in this Contract, and is nonrefundable in all events.



## **ARTICLE 8 CLOSING**

(1) The closing hereof (“Closing”) shall occur on a mutually acceptable date to EHU and Developer as soon as reasonably possible once the Closing Conditions (as defined in Article 9) are satisfied. In the event Closing does not occur on or before the date which is two (2) years after the date hereof, then this Contract shall automatically terminate unless the parties mutually agree to extend and neither party shall have any further obligations hereunder except those that expressly survive termination.

(2) At the Closing, Developer shall furnish and deliver to EHU, at Developer’s sole cost, the following:

- a. with respect to the Plant Sites and the lift station sites and all other portions of the Utility System to be conveyed in fee to EHU, the execution of the 99-year lease reference in Article 7;
- b. such evidence or other documents as may be reasonably required by EHU or, as applicable, the title company, evidencing the status and capacity of Developer and the authority of the person or persons who are executing the various documents on behalf of Developer in connection with the sale and conveyance of the Plant Sites, Utility System Mains and related easements to EHU pursuant hereto;
- c. a non-withholding statement that will satisfy the requirements of Section 1445 of the Internal Revenue Code so that EHU is not required to withhold any portion of the Purchase Price for payment to the Internal Revenue Service;
- d. utility easements, in a form mutually agreed to by the parties, for any portion of the Utility System Mains not situated on a Plant Site and/or not already contained within a publicly dedicated easement or private easement in favor of EHU;
- e. perpetual recorded rights-of-way easements suitable for the construction, use, and maintenance of an all-weather access road or driveway to the Plant Sites and lift station and other above ground facility for the Utility System Mains;
- f. any and all other documents and/or easements needed by EHU to operate and maintain the Utility System in accordance with Agency and PUC regulations and requirements;
- g. such other documents as may reasonably be required to consummate this transaction; and

(3) Developer and EHU each agree to exercise diligent, good faith efforts to obtain any necessary Agency Authorization and complete the closing proceedings. Each party will bear their respective expenses in regard to such proceedings, except as otherwise expressly provided herein.

## **ARTICLE 9 CONVEYANCE CONDITIONS**

(1) EHU's obligation to close this transaction is expressly conditioned upon the satisfaction of the following conditions (collectively, the "EHU Conveyance Conditions") on or before the Conveyance (such conditions are for the sole benefit of EHU and may only be waived by EHU in its sole and absolute discretion):

- a. Developer shall have completed construction of the Utility System Mains as part of a state-certified retail public water/sewer utility system to serve the Development which complies with all applicable laws, rules and regulations regulating same;
- b. EHU shall have received any and all necessary governmental approvals for the ownership and operation of the Utility System;
- c. Developer shall have secured the property rights, in favor of EHU, for the Plant Sites, as identified in a final recorded plat;
- d. EHU shall have completed the construction of the Plants.
- e. All of Developer's representations and warranties made herein, including those set forth in the recitals, shall be true and correct as of the date of Conveyance and Developer shall have fully complied with all of Developer's covenants contained herein.

(2) Developer's obligation to close this transaction is expressly conditioned upon the satisfaction of the following conditions (collectively, the "Developer Conveyance Conditions") on or before the Conveyance (such conditions are for the sole benefit of Developer and may only be waived by Developer in its sole and absolute discretion):

- a. EHU shall have completed construction of the Plants as part of a state-certified retail public water/sewer utility system to serve the Development which complies with all applicable laws, rules and regulations regulating same;
- b. EHU shall have received any and all necessary governmental approvals for the ownership and operation of the Utility System.
- c. All of EHU's representations and warranties made herein, including those set forth in the recitals, shall be true and correct as of the date of Closing and EHU shall have fully complied with all of EHU's covenants contained herein.

## **ARTICLE 10 TITLE REVIEW AND BROKERS**

(1) EHU is hereby advised that it should have the abstract covering the herein described real estate examined by an attorney of its selection, or be furnished with or obtain a policy of title insurance.

(2) Developer and EHU each agree to indemnify the other party hereto and save and hold each other harmless from any liability or claim for any commission to any third party claiming by, through or under Developer or EHU, respectively.

## **ARTICLE 11 REMEDIES**

The parties acknowledge that full and faithful performance of this Contract is material to each respective party and their willingness to be bound by the same. The parties further acknowledge that full and faithful compliance with all Agency or applicable governmental orders issued during any regulatory review and approval proceeding(s) arising therefrom is critical to the successful closing of this Contract. Accordingly, the parties agree that the remedies for any breach hereunder shall be:

(1) If EHU fails to comply herewith, EHU shall be in default, and if such default continues for a period of ten (10) business days after EHU receives written notice of such default, Developer may, as its sole and exclusive remedy options:

- a. enforce the Contract through judicially ordered specific performance; or
- b. seek such other relief in equity or as may be provided by law; provided that in no event shall EHU be liable for any punitive, speculative, or consequential damages, or damages for loss of opportunity or lost profit, in the event of EHU's default hereunder; or
- c. terminate this Agreement with written notice if EHU's failure to comply is material to the transaction.

(2) If Developer fails to comply herewith, Developer shall be in default, and if such default continues for a period of ten (10) business days after Developer received written notice of such default, EHU, may as its sole and exclusive remedy options:

- a. enforce the Contract through judicially ordered specific performance;
- b. seek such other relief in equity or as may be provided by law; provided that in no event shall Developer be liable for any punitive, speculative, or consequential damages, or damages for loss of opportunity or lost profit, in the event of Developer's default hereunder; or
- c. terminate this Agreement with written notice if Developer's failure to comply is material to the transaction.

## **ARTICLE 12 FURTHER DEVELOPER COVENANTS**

In addition to other obligations set forth in this Contract, Developer covenants and agrees that water and sewer for the Development will be provided exclusively by EHU and that no water

wells shall be made, bored or drilled, nor any type or kind of private sewer system installed or used for the Development.

### **ARTICLE 13 MODIFICATION OR WAIVER**

Recognizing that some provisions of this Contract may be subject to Agency action, EHU may modify or waive such obligations, which modification or waiver shall not be unreasonably withheld if the intent of the parties can still be achieved and the Utility System economically and efficiently operated by EHU under the tariff approved by the Agency without financial burden upon Developer or EHU's other customers, affiliate utilities, or shareholders.

### **ARTICLE 14 MISCELLANEOUS**

(1) All notices, demands or other communications of any type given by the Developer to EHU, or by EHU to Developer, whether required by this Contract or in any way related to the transaction contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this paragraph. All notices shall be in writing and delivered to the person to whom the notice is directed, either in person, by overnight delivery service, facsimile with confirmed receipt, or by mail as a registered or certified item, return receipt requested. Notices delivered by mail shall be deemed given upon the date when deposited in a post office or other depository under the care or custody of the United States Postal Service, enclosed in a wrapper with proper postage affixed, and notices delivered by other means shall be effective when received by the party to whom the same is addressed, and such notices shall be addressed as follows. The addresses of the parties for purposes of notice, correspondence or other matters arising herefrom shall be the following until written notice to the other parties of any change:

**K8H Ventures**

Attn: Kevin Mims, President  
5451 FM 1488  
Magnolia, Texas 77354

**East Houston Utilities**

Attn: Stephen Krebs, President  
11015 Sheldon Rd. Ste 102  
Houston, TX 77044

(2) This Contract supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Contract which is not contained herein shall be valid or binding.

(3) This Contract shall be binding on the heirs, executors, administrators, legal representatives, successors and permitted assigns of the respective parties. Neither Party may

assign this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld.

(4) This Contract may be amended by the mutual agreement of the parties herein in a written instrument specifically referencing this Contract.

(5) The headings used in this Contract are used for administrative purposes only and do not constitute substantive matter to be considered in construing the terms of this Contract.

(6) Wherever the context shall so require, all words herein in the male gender shall be deemed to include the female or neuter gender, all singular words shall include the plural, and all plural words shall include the singular.

(7) If Developer is not a “foreign person,” as defined in the Federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, as amended (the “federal tax law”), then at the Closing, Developer will deliver to EHU a certificate so stating, in a form complying with the federal tax law. If Developer is a “foreign person” or if the Developer fails to deliver the required certificate at the Closing, then in either such event Developer shall comply with the withholding provisions of the federal tax law.

(8) Prior to the commencement of litigation, the parties agree to submit any dispute arising hereunder not resolved by mutual agreement to non-binding arbitration, pursuant to Tex. Civ. Prac. & Rem. Code 154.027, before an impartial third party (“Arbitrator”) qualified under Tex. Civ. Prac. & Rem. Code 154.052. The Arbitrator shall be selected by mutual agreement of the parties or by court order absent such agreement. The parties agree that this agreement may be enforceable by specific performance as well as any other remedy available at law or in equity. By agreement of the parties, venue over any cause of action arising from this agreement shall lie in the courts of Harris County, Texas, and shall be subject to and interpreted by the laws of the State of Texas. Venue over any administrative cause of action shall lie in the Agency and the courts of Montgomery County, Texas. All parties agree that if any party(ies) should default on any of the conditions and covenants hereunder or threaten to do so, or should it be necessary for any reason for either to hire or retain an attorney to represent them in connection with this Contract, the party(ies) found to be responsible agrees to pay to the prevailing party(ies) a reasonable amount for costs and attorney’s fees.

(9) The parties acknowledge herein that the performance of various covenants and obligations arising hereunder shall not occur until after closing. Therefore, all covenants and obligations created by and terms and conditions of this Contract shall survive closing and shall be binding on all parties, their heirs, successors, and assigns. After closing of the sale of the Utility System, EHU shall have exclusive control over the management and operation of the Utility System, subject only to governmental health, safety, and service regulations. After closing, Developer’s only interest in the Utility System shall be that of user.

(10) **FORCE MAJEURE** - Each Party shall use good faith, due diligence, and reasonable care in the performance of its respective obligations under this Contract, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Contract, then the obligations affected by the force majeure shall

be temporarily suspended. Within twenty (20) business days after the occurrence of a force majeure (or such longer time as may reasonably be required due to the nature of the force majeure), the Party claiming the right to temporarily suspend its performance, shall give Notice to the other Parties affected by the delay in performance, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest reasonable time. The term "force majeure" shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the exercise of good faith, due diligence, and reasonable care.

(11) There are no third-party beneficiaries of this Contract not expressly named herein and none are intended.

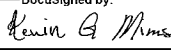
(12) EHU will make every effort to secure financing for any additional funds needed for the construction and installation of the 3 plants. However, if unforeseen circumstances prevent this, developer will offer EHU a construction loan of up to \$1,000,000.00 at 6% APR, amortized in monthly increments over the term of 120 months, starting the day of the first regular service application approval.

*Signature page to follow.*

EXECUTED on 3/8/2022.

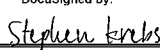
DEVELOPER

K8H Ventures, a Texas limited liability company

By:   
Kevin Mims, President

East Houston Utilities

By: East Houston Utilities, Inc,

By:   
Stephen Krebs, President

**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT "A"**  
**DESCRIPTION OF THE PROPERTY**



**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT “B-1”**  
**DESCRIPTION OF THE PRODUCTION AND WASTEWATER TREATMENT**  
**FACILITIES**

**WATER SYSTEM**

[Detailed inventory of plant and facilities of the public drinking water utility system approved or to be approved by Agency]

PHASE OF CONSTRUCTION

FACILITIES:

**SEWER SYSTEM**

[Detailed inventory of plant and facilities of the public sewer utility system approved or to be approved by Agency]

PHASE OF CONSTRUCTION

FACILITIES:

**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT "B-2"**  
**DESCRIPTION OF THE UTILITY SYSTEM MAINS**

**WATER SYSTEM**

[Detailed inventory of water main lines and related facilities for the public drinking water utility system approved or to be approved by Agency]

PHASE OF CONSTRUCTION

FACILITIES:

**SEWER SYSTEM**

[Detailed inventory of sanitary sewer main lines and related facilities of the public sewer utility system approved or to be approved by Agency]

PHASE OF CONSTRUCTION

FACILITIES:

**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT “C”**  
**LEGAL DESCRIPTIONS AND/OR DEPICTION OF THE PLANT SITES**

*[Depiction of Water Plant Site to follow]*

**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT “D”**  
**PRELIMINARY PLAT/CONCEPT PLAN**

**CONTRACT FOR THE OPERATION AND PURCHASE OF  
PUBLIC DRINKING WATER AND/OR SANITARY SEWER  
FACILITIES IN HARRIS COUNTY**

**EXHIBIT "E"  
SANITARY CONTROL EASEMENTS**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

AFTER RECORDING, RETURN TO:  
East Houston Utilities, Inc  
11015 Sheldon Rd. Ste 102  
Houston, TX 77044

**SANITARY CONTROL EASEMENT  
Well Site #\_\_\_**

THIS AMENDED AND RESTATED SANITARY CONTROL EASEMENT (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between East Houston Utilities, Inc having an address of 11015 Sheldon Rd. Ste 102 Houston, TX 77044 ("Beneficiary") and K8H Ventures, a Texas limited liability company having an address of 5451 FM 1488, Magnolia, Texas 77354 ("Owner").

**RECITALS:**

WHEREAS, Beneficiary as owner and holder of the Certificates of Convenience and Necessity for the real property affected by the Easement (as defined below);

WHEREAS, Owner is the record owner of that certain real property situated in Harris County, Texas, containing ± \_\_\_\_ lots in the \_\_\_\_\_ Survey A-\_\_\_\_, Harris County, Texas, as described in deed to \_\_\_\_\_, recorded under Harris County Clerk's File No. \_\_\_\_\_, and referred to herein as the "Burdened Property" (herein so called);

WHEREAS, the Beneficiary and Owner desire to adopt, establish and impose the Easement and related restrictions on the Burdened Property, as more specifically provided herein.

NOW, THEREFORE, Owner and Beneficiary hereby adopt, establish and impose the following restrictions and easement upon the Easement Area (hereinafter defined) within the Burdened Property and declares that the Easement Area within the Burdened Property is and shall be held, transferred, assigned, sold, conveyed and occupied subject to all such restrictions and easements set forth in this Agreement.

THEREFORE, Owner and Beneficiary, intending to be legally bound hereby, agree as follows:

1. The foregoing recitals are incorporated herein by this reference thereto.
2. Owner hereby grants to Beneficiary a sanitary control easement having a radius of one hundred fifty (150) feet of the Well (the "Easement") over a portion of the Burdened Property at the location described on **Exhibit A** and shown on **Exhibit B**, attached hereto and incorporated herein (the "Easement Area").
3. The construction and operation of underground petroleum and chemical storage tanks and liquid transmission pipelines, stock pens, feedlots, dump grounds, privies, cesspools, septic tank or sewage treatment drainfields, improperly constructed water wells of any depth, and all other construction or operation that could create an unsanitary condition within, upon, or across the Easement Area subject to this Agreement are prohibited on all or any part of the Easement Area. For the purpose of the Easement, improperly constructed water wells are those which do not meet the surface and subsurface construction standards for a public water supply well.
4. The construction of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, and cemeteries is specifically prohibited within a 50-foot radius of Well.
5. This Agreement permits the construction of homes or buildings upon the Burdened Property so long as their construction and use is in compliance with the provisions of this Agreement.
6. Normal farming and ranching operations are permitted on the Property, except that livestock shall not be allowed within a 50-foot radius of the Well.
7. The Easement declared herein is binding upon the Owner and (his) (her) (its) (their) heirs, personal representatives, successors and assigns and shall run with the land for so long as the Well is used as a source of water for public water systems.
8. This Agreement shall be subject to and governed by the laws of the State of Texas.
9. Enforcement of this Agreement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate the restrictions in this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Owner and Beneficiary has executed, sealed and delivered this Agreement as of the day and year first above written, and this Agreement amends, modifies and supersedes the Original Easement Agreement in its entirety.

**BENEFICIARY:**

East Houston Utilities, Inc

By: East Houston Utilities, Inc

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

Name: Stephen Krebs

Title: President

STATE OF TEXAS )

)

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me the \_\_\_\_ day of \_\_\_\_\_, 2021,  
by \_\_\_\_\_, the President of East Houston Utilities, Inc.

\_\_\_\_\_  
Notary Public, State of Texas

**OWNER:**

K8H Ventures, a Texas limited liability company

By: \_\_\_\_\_  
Kevin Mims, President

STATE OF TEXAS                    )  
  )  
COUNTY OF HARRIS            )

This instrument was acknowledged before me the \_\_\_\_\_ day of \_\_\_\_\_, 2019,  
by Kevin Mims, the President of K8H Ventures, a Texas limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas



EXHIBIT A  
To Sanitary Control Easements

LEGAL DESCRIPTION OF THE EASEMENT AREA

[see attached]

EXHIBIT B  
To Sanitary Control Easements

DEPICTION OF THE EASEMENT AREA

[see attached]