



City of Austin

Law Department

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March 10, 2005

Patrick C. King
Professional General Mgmt. Services, Inc.
1600 Stagecoach Ranch Road
Dripping Springs, Texas 78620

Commissioner Lisa Birkman ✓
Williamson County Precinct No. 1
400 W. Main Street, Suite No. 216
Round Rock, TX 78664

Ron Pigott, Attorney
Texas Water Development Board
P.O. Box 13231
1700 Congress Avenue
Austin, TX 78711-3231

Paulo Pinto, R.S.
Director of Environmental Services
Williamson County & Cities Health District
303 Main Street
Georgetown, Tx 78626

Re: Northridge Six Party Agreement; Fully Executed Duplicate Original Enclosed.

Dear Mr. King, Mr. Pigott, Commissioner Birkman, and Mr. Pinto:

I am enclosing for each of you one (1) fully executed duplicate original of the Six Party Agreement referenced above.

It has been a privilege to work on this matter with each of you. I am hopeful that these proceedings will result in a final resolution of the water situation in the Northridge Acres area.

As I will be leaving the City of Austin Law Department on March 11, please contact Marty Terry (512) 974-2974 or Sharon Smith (512) 974-7773 of our office or Bart Jennings at the Austin Water Utility (512) 972-0118 if you need further assistance concerning this Agreement.

Sincerely,

John M. Tresnicky
Assistant City Attorney

JMT/jmt

cc: J. Chris Lippe, P.E., Director, Austin Water Utility
B. Jennings, Wholesale Services Division, Austin Water Utility

**SIX PARTY AGREEMENT
FOR THE
NORTHRIDGE WATER SUPPLY CORPORATION PROJECT**

THIS AGREEMENT ("Agreement") is entered into by and between the Texas Water Development Board ("TWDB"), the City of Austin, Texas ("City"), Travis County-Texas, Williamson County-Texas, Northridge Water Supply Corporation ("Corporation"), and Williamson County and Cities Health District ("District"). The TWDB, the City, Travis County, Williamson County, the Corporation, and the District may be referred to in this Agreement individually as a "Party" and collectively as "Parties."

The Parties have severally and collectively agreed to the terms outlined within this Agreement and, by their execution of it, agree to the mutual obligations and to the performance and accomplishment of the desired tasks.

ARTICLE I. RECITALS

The Northridge Water Supply Corporation, a Texas non-profit Water Supply Corporation, provides water service to the Northridge Acres Subdivision in Travis and Williamson Counties. In 1999, the Corporation's water well, which had been its sole water source, became inoperable, and the City of Round Rock agreed to install a temporary connection to its water system through a City of Round Rock fire hydrant. The Corporation currently obtains its potable water supply from this source.

In August 2000, the Texas Commission on Environmental Quality ("TCEQ") issued an enforcement order against the Corporation for items of non-compliance with TCEQ regulations.

In October 2000, the Corporation was placed under receivership, and it currently remains in receivership.

In June 2004, the receiver applied for funding from the Texas Water Development Board's Small Community Hardship Program. This Six Party Agreement ("Agreement") is intended to facilitate funding improvements to the Corporation's water system through that program in order to remedy the identified deficiencies. This Agreement contemplates a cooperative effort by the TWDB, the City, the Corporation, Travis and Williamson Counties, and the District in coordinating the Northridge Water Supply Corporation Project ("Project"), which consists of the design and construction of a new distribution system to convey potable water from the connection with the City's water system to the Corporation's existing customers, including, but not limited to: distribution lines; fire hydrants; service laterals, valves, meters and connections to the structures of existing Corporation customers; pavement repair; and demolition and removal of existing Corporation water storage and pumping facilities.

Funding provided by the TWDB and other sources will be used to completely replace the Corporation's existing water system. The goals of replacing the system include:

- a. meeting water system design standards and specifications satisfactory to the City,
- b. allowing the appropriate disconnection from the City of Round Rock's fire hydrant,
- c. providing a permanent connection to the City's water system, and
- d. allowing:
 1. conveyance of the Corporation's water system, including the Project, to the City upon terms acceptable to the City, thus allowing the City to provide retail water service within the service area of the Corporation's Certificate of Convenience and Necessity;
 2. the filing for the decertification of the Corporation's Certificate of Convenience and Necessity; and
 3. the dissolution of the Corporation.

It is understood by all Parties to this Agreement that performance of many of the responsibilities contemplated by this Agreement require separate contracts to fully describe and govern those responsibilities. The Parties shall negotiate in good faith and with reasonable diligence to execute any contracts necessary to carry out their responsibilities under this Agreement.

ARTICLE II. OBLIGATIONS OF THE PARTIES:

Section 2.01. *City of Austin Obligations*

A. The Parties agree that the Project will be built to City standards and specifications, and that the City retains the exclusive authority to determine that the Project as constructed meets such standards as specified in a separate agreement between the Corporation and the City.

B. Upon the completion of the Project and the terms specified in a separate agreement between the Corporation and the City, all customers of the Corporation will become retail customers of the City and all such customers will pay the City's applicable rates and fees for such service. The wholesale water contract between the City and the Corporation will be terminated as specified in a separate agreement between the Corporation and the City.

C. As specified in a separate agreement between the Corporation and the City, the City will design and construct the extension of its water infrastructure along FM 1325 to the southwest corner of the Northridge Acres Subdivision at the City's cost.

D. The City agrees to not charge its water capital recovery fee for any existing water connections of the Corporation. The City's water capital recovery fees will be applicable to any new water connections, requests for increased size of existing water meters, or in other circumstances in which such fees are applicable, as specified in a separate agreement between the Corporation and the City.

Section 2.02. *Corporation Obligations*

A. The Corporation agrees to design and construct the Project and to timely pay, as specified through a separate agreement between the Corporation and Travis County, all applicable project related costs and expenses, including, without limitation, applicable City inspection and other fees associated with the construction of the Project. The Corporation, through a separate contract with Travis County, will utilize Grant Development Services, or a similar entity, to manage all funds related to the Project, track, document, and pay expenditures, and comply with applicable audit requirements.

B. As specified in a separate agreement between the Corporation and the City, the Corporation agrees to timely file an application to decertify its water Certificate of Convenience and Necessity at its expense.

C. As specified in a separate agreement between the Corporation and the City, the Corporation agrees to take such steps as are necessary to legally dissolve itself at its expense.

D. As specified in the separate agreement between the Corporation and the City, the Corporation agrees to timely transfer its water system including the Project to the City. The Corporation must repay its loan from the TWDB, and all other debts, prior to transfer of the Corporation's water system and the Project to the City.

E. The Parties agree that the City is only obligated to accept conveyance of the Corporation's water system, including the Project, on the condition that the conveyance occurs at no cost to the City, other than specified herein, that the City will not assume any indebtedness of the Corporation upon such conveyance, and that the other terms and conditions of this Agreement and the separate agreement between the Corporation and the City are accomplished to the City's satisfaction prior to such conveyance.

F. As specified in the separate agreement between the Corporation and the City, the Corporation will provide the City a complete accounting of all assets, liabilities, and claims upon the assets of the Receivership and the Corporation.

Section 2.03. *Texas Water Development Board Obligations*

The TWDB, through TWDB Resolution No. 04-82, has committed to provide the Corporation with a \$1,000,000 grant and a \$334,000 loan. As a condition of this commitment, the Corporation must execute one or more agreements with Travis County providing that Travis County will manage and administer the project construction and the funds necessary for such construction. The terms and conditions of the TWDB's loan and grant to the Corporation will be defined in separate agreements between the TWDB and the Corporation, to include a loan agreement, a grant agreement, a deed of trust and security agreement, and such other documentation as required by the TWDB.

Section 2.04. *Travis County Obligations*

A. Travis County will apply for a grant from the Office of Rural Community Affairs (ORCA) and/or other appropriate funding entities in the amount of approximately \$500,000, with funds from any grant received to be applied to the project.

B. Travis County will provide a grant/construction manager for the project who will submit the grant application to ORCA and/or other appropriate funding entities, manage the administration of project funding, and manage construction activity, as specified in separate agreements relating to the authority of the grant/construction manager. Travis County will release funds or require the grant/construction manager to release funds in a manner that will allow for the timely payment of all project-related costs, including applicable City fees.

Section 2.05. *Obligations of Travis and Williamson Counties and the District*

A. Prior to the conveyance of the Corporation's water system and the Project to the City, Travis County and the District, will inspect each on-site sewage facility within the Corporation's service area within their respective jurisdictions to determine if it is operating in accordance with all applicable county private sewage facility regulations. Travis County and the District agree to provide documentation of the inspections indicating the condition of each of the on-site sewage facility as of the date of the inspection to the other Parties to this Agreement no later than ten (10) business days following the date of completion of such inspections. Landowners within the Corporation's service area will continue to be responsible for the ownership, operation, and maintenance of their respective on-site sewage facilities.

B. Travis County will provide in-kind services and Williamson County will provide \$150,000 to the Project. Without intending to limit the scope of such activities, such services and contributions may include pavement repair, traffic control, silt fencing during construction, re-vegetation, road saw-cuts, removal or relocation of any obstacles in the easements, and the demolition and removal of existing water storage and pumping facilities of the Corporation to the TCEQ's satisfaction. Such activities shall be completed prior to the conveyance of the Corporation's water system and the Project to the City. Travis County and Williamson County will use their best efforts, given their budgetary limitations, to resurface the streets in the Northridge Acres subdivision after completion of the Project.

ARTICLE III. NO WAIVER OF SOVEREIGN IMMUNITY

The execution of this Agreement and related documents shall not constitute a waiver of sovereign immunity provided pursuant to applicable laws.

ARTICLE IV. APPLICABLE LAW

It is expressly understood by and between the Parties hereto that the provisions of this Agreement are subject to the applicable provisions of the Constitution and laws of the State of Texas. The Parties hereto reserve all rights at law and in equity to enforce the performance of this Agreement, and each respectively covenants to exercise all such rights to the extent necessary to perform or cure any default on the part of the other.

ARTICLE V. AMENDMENT

This Agreement may be amended by agreement of all of the Parties in written form. Any such amendment or extension shall be executed in the same manner as this Agreement was originally executed.

ARTICLE VI. AGREEMENT TERM

This Agreement shall commence upon the date of execution by the Parties, and shall terminate upon a date corresponding to the occurrence of the last of the following events: (1) the court responsible for oversight of the Corporation's receivership signs a final court order approving the dissolution of such receivership; (2) the Corporation's Certificate of Convenience and Necessity has been decertified with respect to the Corporation; and (3) the City has assumed ownership of the Corporation's water supply system and the Project. This Agreement may be extended by written agreement of the Parties pursuant to Article V of this Agreement. The Parties anticipate that project construction will begin in October 2005 with an expected completion date of April 2006, although the Parties acknowledge that, owing to the unique nature of coordination required for completion of the Project and the complexities that are thereby inherent in the Project's planning and construction, these are desired but not binding timeframes.

ARTICLE VII. ADDITIONAL AGREEMENTS

The Parties acknowledge that this Agreement is intended to describe the framework for each Parties respective obligations with respect to accomplishing the common purpose of providing a reliable water source for the residents within the Corporation's service area, and that additional agreements between them will be required to define specific tasks in greater detail. At this time, and without intending to limit execution of such agreements, the following additional contracts are anticipated:

1. A contract between Travis County and the grant/construction manager;
2. A contract between Travis County and the Office of Rural Community Affairs and/or other funding entity, as applicable;
3. An agreement between Travis County and the Corporation relating to the grant/construction manager's responsibilities, including an agreement between the Corporation and Travis County providing that Travis County will manage and administer project funds necessary for construction;
4. One or more agreements between the Corporation and the City relating to:
 - a. the Corporation's obligation to ensure that the Project is built to meet City standards and specifications and all City fees are paid;
 - b. termination of the existing wholesale water supply contract between the City and Corporation;
 - c. decertification of the Corporation's existing Certificate of Convenience and Necessity;
 - d. the Corporation's obligation to provide a complete accounting of all assets, liabilities, and claims upon the assets of the Receivership and the Corporation;

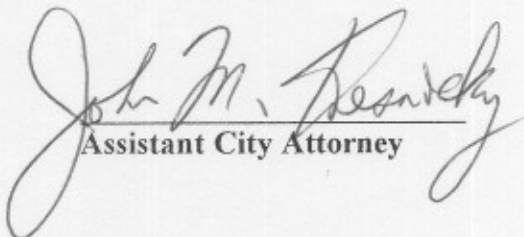
- e. dissolution of the Receivership and the Corporation and transfer of the Corporation's water system and the Project to the City;
 - f. the Corporation's payment, in full, of all loans and debts; and
 - g. extension of the City's water system to the southwest corner of the Corporation's current service area.
5. Grant and loan agreements between the TWDB and the Corporation to provide funding to the Corporation.

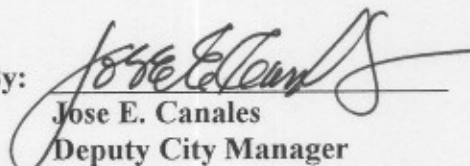
ARTICLE VIII. SCOPE OF PROJECT

This Agreement relates to the provision of a reliable potable water supply for the Corporation's service area, and none of the Parties, by executing this Agreement, obligate themselves in any way to providing or funding any extension of centralized wastewater services for replacement of existing on-site sewage facilities. Before, during, and after completion of the project, landowners in the Northridge Acres subdivision will be solely responsible for the ownership, operation, and maintenance of their respective on-site sewage facilities.

APPROVED AS TO FORM:

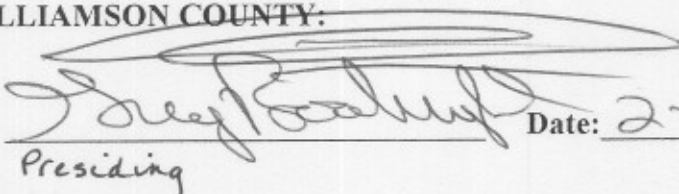
CITY OF AUSTIN, TEXAS:


Assistant City Attorney

By: 
Jose E. Canales
Deputy City Manager

Date: 3-2-05

WILLIAMSON COUNTY:

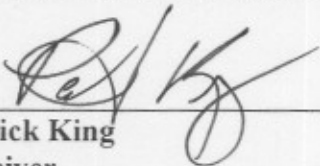
By: 
Presiding

Date: 2-15-05

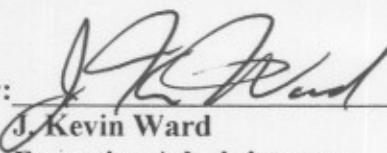
TRAVIS COUNTY:

By: 
Date: 3-8-05

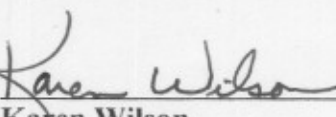
NORTHRIDGE WATER SUPPLY CORPORATION:

By:  Date: 2-28-05
Patrick King
Receiver

TEXAS WATER DEVELOPMENT BOARD:

By:  Date: 2/24/05
J. Kevin Ward
Executive Administrator

WILLIAMSON COUNTY AND CITIES HEALTH DISTRICT:

By:  Date: 2/17/05
Karen Wilson
Director