

## WATER AND WASTEWATER SERVICE CONTRACT

STATE OF TEXAS                   §  
  §  
COUNTY OF WILLIAMSON       §

This Water and Wastewater Service Contract ("Contract") is made and entered into by and between the CITY OF ROUND ROCK, a home-rule city, hereinafter referred to as "City", and WILLIAMSON COUNTY, hereinafter referred to as "Purchaser". For and in consideration of the premises and the mutual agreements, covenants, and conditions hereinafter set forth, the parties hereto contract and agree as follows:

### Article I. Provision of Water and Wastewater Service

1.01. City agrees to sell Purchaser water and wastewater service required by Purchaser for domestic uses on an as-needed basis, for the property described more fully in as Exhibit "A" attached hereto and made a part of this Contract (the "Property").

1.02. City's obligation to provide water and wastewater services under this Contract is subject to the capacity of City's facilities to provide water and wastewater services to Purchaser after meeting the municipal, domestic, commercial, and industrial needs within City's corporate limits, and after meeting any contractual obligations existing as of the date of execution of this Contract, but in no event shall the City be obligated to provide more than 250,000 gallons per day, averaged over any consecutive thirty (30) day period, and no more than fifty-two (52) Living Unit Equivalents (LUE's) of wastewater service. However, notwithstanding anything else in this Contract to the contrary, City shall make all reasonable efforts to provide the water and wastewater services described herein in order to ensure that Purchaser is capable of receiving up to 250,000 gallons per day, averaged over any consecutive thirty (30) day period, and up to fifty-two (52) Living Unit Equivalents (LUE's) of wastewater service.

1.03. Purchaser agrees to abide by all voluntary and mandatory conservation and use restrictions imposed by City on its own citizens. Purchaser is solely responsible for the construction of any and all lines servicing the Property, including the negotiations of any and all easements or pass-through agreements with other entities. It is acknowledged by Purchaser that water and wastewater services will pass through Vista Oaks M.U.D., and that it is Purchaser's obligation to obtain approval of said pass through.

### Article II. Rates

2.01. Purchaser agrees to pay City for all water delivered to Purchaser plus the base charge at the same rate as for retail customers located within the city limits as provided by Sec.44-29 (f) of the Round Rock Code of Ordinances (2010 Edition). Purchaser agrees to pay City for all wastewater service at the same rate as for retail customers located within the city limits plus the base charge as provided by Sec. 44-30 (a) of the Round Rock Code of Ordinances

(2010 Edition). The calculation of the volume of wastewater to be billed each month will be as follows.

2.02 Until the City has collected historical water use data through March 1, 2013, the wastewater volume charge will be calculated as fifty percent (50%) of the actual water use for each billing period.

2.03 After the City has collected the historical water use data through March 1, 2013, the wastewater volume charge will be calculated as fifty percent (50%) of the average monthly water use for the prior year and this average monthly water use will be billed for the next 12-months (March 2013 through February 2014). The average monthly water use will be calculated annually as the total water billed in the previous 12-months (March – February) then divided by 12.

2.04. City shall render a monthly bill to Purchaser for wastewater service and water consumed. Payment shall be made no later than the tenth (10th) day following the mailing of the bill. Failure by Purchaser to make a payment when and as specified will give City the option to terminate all obligations of City under this Contract.

2.05. Purchaser shall be subject to all provisions of the Utility Billing Policy contained in Sec. 44-31 of the Round Rock Code of Ordinances (2010 Edition), and as amended from time to time.

### Article III. Compliance with Ordinances

3.01. Purchaser agrees to comply with all of City's ordinances as they now exist or as they are amended from time to time regarding conservation of water and the sanitary use of water or the wastewater treatment system.

3.02. Purchaser agrees to take all reasonable precautions to maintain the sanitary condition of City's water supply system.

### Article IV. Force Majeure

4.01. In the event either party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Contract, then the obligations of that party, to the extent affected by the 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 the inability. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to equipment, pipelines, or canals, partial or entire failure of water supply, and any other incapacities of either party, whether similar

to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been 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 requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty. Force majeure shall relieve City from liability to Purchaser for failure to provide water service due to an inability covered by this article. Force majeure shall not relieve Purchaser of its obligation to make payments to City as provided in this Contract.

#### Article V. Term

5.01. The term of this Contract shall be for a term of ten (10) years from the date hereof.

#### Article VI. Inspection and Construction Issues

6.01 As the property owned by Purchaser is all currently outside the city limits, no building permits or inspections will be required or made by the City; however, the City will inspect only the connection where the water and wastewater services are connected to the City system. No other City requirements or fees for development, including, but not limited to, building permits, inspection fees, detention facilities or payments, or any other such obligations shall be required until said annexation and platting occurs.

#### Article VII. Miscellaneous Provisions

7.01. Purchaser agrees that it is prohibited from selling or giving water purchased herein to anyone else.

7.02. Purchaser shall be permitted to assign its rights herein to a bona fide purchaser of its property as long as the intended use of the water remains the same or similar.

7.03. This Contract shall be construed under and in accordance with the laws of the State of Texas, and any and all actions brought to enforce the term of this Contract shall be brought in Williamson County.

7.04. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Contract.


7.05. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

7.06. This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

7.07. The violation by Purchaser of any of City's ordinances related to the use or disposition of water and wastewater shall render this Contract voidable at the option of City.

EXECUTED, in duplicate, at Round Rock, Williamson County, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

  
Sara White, City Clerk

**SELLER:**

CITY OF ROUND ROCK

By:   
Alan McGraw, Mayor

**PURCHASER:**

WILLIAMSON COUNTY

By:   
Dan Gattis, County Judge