

AGREEMENT FOR PASS-THROUGH WATER AND WASTEWATER SERVICE

[WILLIAMSON COUNTY REGIONAL PARK]

THIS AGREEMENT FOR PASS-THROUGH WATER AND WASTEWATER SERVICE [WILLIAMSON COUNTY REGIONAL PARK] is entered into effective as of the Effective Date (defined below), by and between VISTA OAKS MUNICIPAL UTILITY DISTRICT, a political subdivision of the State of Texas operating under Chapters 49 and 54 of the Texas Water Code and formerly known as Williamson County Municipal Utility District No. 9 (the "District"), and WILLIAMSON COUNTY, TEXAS, a political subdivision of the State of Texas (the "County").

RECITALS:

A. The County previously entered into a Water and Wastewater Service Contract dated effective April 25, 2002 (the "Original City Service Contract") with the City of Round Rock, Texas (the "City") and an Agreement Between Williamson County Municipal Utility District No. 9 and Williamson County for Pass-Through Water and Wastewater Service dated effective May 13, 2002 (the "Original Pass-Through Agreement") with the District providing for retail water and wastewater service from the City to the property described on EXHIBIT "A", which has now been developed as the Williamson County Regional Park (the "Park"), using the District's water and wastewater systems on a pass-through basis.

B. The Original City Service Contract and the Original Pass-Through Agreement have expired, and the County desires to renew such agreements to extend the term for the City's provision of retail water and wastewater service to the Park using the District's water and wastewater systems on a pass-through basis.

C. The City has agreed to renew its commitment to provide water and wastewater service to the Park using the District's water distribution and wastewater collection systems to pass City water and wastewater service through to the Park pursuant to the Water and Wastewater Service Contract between the City and the County set forth in EXHIBIT "B" (the "Renewed City Service Contract").

D. The District has a guaranteed reservation and commitment of 1,400 Living Unit Equivalents ("LUEs") of water and wastewater capacity from the City under the Vista Oaks Municipal Utility District Amended and Restated Wholesale Water and Wastewater Agreement dated August 29, 2011 (the "District's Wholesale Contract"). None of the LUEs of capacity guaranteed and reserved to the District under the District's Wholesale Contract will be utilized to serve the County's Park under this Agreement. Instead, the City is committing 52 LUEs of water and wastewater capacity directly to the County under the Renewed City Service Contract and will simply be using the District's systems to serve the County's Park on a pass-through basis.

E. The District has determined that sufficient water and wastewater capacity exists within its systems to pass the 52 LUEs of water and wastewater service committed by the City to the County through the District's water distribution and wastewater collection systems to the Park and that the revenues from the County for this pass-through of water and wastewater service would be of benefit to the District and its residents.

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the District and the County contract and agree as follows:

Section 1. Recitals. The above and foregoing recitals are incorporated herein by reference.

Section 2. Pass-Through Water and Wastewater Service.

A. Authorization of Pass-Through Service. Subject to the terms and conditions of this Agreement and the Renewed City Service Contract, for a period of ten years from the date of the Renewed City Service Contract (the "Service Period"), the County may (i) connect to the District's water distribution system at the point of connection identified on **EXHIBIT "C"** (the "Water Point of Connection") to receive up to 52 LUEs of potable retail water service from the City under the Renewed City Service Contract; and (ii) connect to the District's wastewater collection system at the point of connection identified on **EXHIBIT "C"** (the "Wastewater Point of Connection") to deliver to the City up to 52 LUEs of retail domestic wastewater service under the Renewed City Service Contract.

B. Limitations and other Conditions of Service.

1. Pass-through service under this Agreement is subject to the capacity of the District's facilities to provide such service after meeting all needs within the District and any contractual obligations existing as of the Effective Date. Further, notwithstanding anything else in this Agreement to the contrary, in no event will the County, without the prior written consent of the District, (a) take more than 250,000 gallons per day, averaged over any consecutive 30-day period, of water as measured at the water meter at the Water Point of Connection, or (b) deliver through the District's wastewater collection system more than 52 LUEs of wastewater measured at the Wastewater Point of Connection. The District's Board of Directors will have the discretion to waive the limitations set forth in this Subsection, upon written request of the County. Water service to the Park will be subject to, and the County agrees to be bound and abide by, the District's Water Conservation and Drought Contingency Plan, as amended from time to time.

2. To the extent the County wishes to make improvements to the Park property that would impact water usage and wastewater generation, the County must submit all plans and specifications for such improvements to the Park property to the District prior to construction of such improvements so that the District may confirm that water utilized and wastewater generated from such improvements will not exceed the maximum limits set forth in this Agreement. The County will be solely responsible for the cost of any infrastructure improvements to the County's or the City's water or wastewater systems that are necessary to enable the City to provide retail water and wastewater service to the Park.

3. The County and the City will be responsible for ensuring that all discharges of industrial waste from the Park comply with federal, state, and municipal requirements regarding pretreatment and monitoring of industrial waste and other prohibited waste. Any compliance or enforcement efforts or pretreatment requirements will be established and monitored by the City in accordance with the City's ordinances. The City will not impose any fee, charge, or fine upon the District for any violation of any ordinance, rule, regulation, or agreement caused by wastewater from the Park, nor will the City impose upon the District any surcharge that is caused by wastewater from the Park, and, if the City does so, the County will pay such amounts to the District within thirty days of demand by the District. Interest charges for any overdue payment shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

4. The County may not connect, or allow any other person or entity, to connect any facilities, persons or property to the District's utility systems. The District reserves the right to deny for any reason any requests by the County to increase the level of service under this Agreement or to serve any facilities, persons, or property outside of the Park. If the County provides water or wastewater service outside of the Park without the written approval of the City and the District, as reflected by an amendment to this Agreement, the District may immediately terminate this Agreement or require the County to immediately terminate service to the facilities, persons, or property outside of the Park.

C. Operation and Maintenance Payment. On or before October 31st of each year during the term of this Agreement, the County will pay the District an annual fee of \$2,340, representing \$3.75 per LUE per month for the operation and maintenance of the

District's lift station used to provide pass-through wastewater service to the Park. This payment will be in addition to any other payments required by this Agreement. Interest charges for any overdue payment shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. The \$3.75 per LUE charge may be adjusted by the District annually to reflect the actual reasonable and necessary costs of operating and maintaining the lift station; provided, however, the District shall provide written notice to the County of any adjustment at least thirty days prior to the effective date of such adjustment.

D. Water Metering. The amount of water passed through the District's water system will be measured by a meter at the Water Point of Connection capable of measuring and recording the amount of water that passes through the meter in a 24-hour period of time. As of the date of this Agreement, metering equipment and related facilities required to properly measure the quantity of water delivered to the Property have been designed, installed, and constructed. The design, plans, and specifications for any new and/or additional metering equipment and related facilities must be approved by the District's engineer and the City's Water and Wastewater Department prior to installation and construction, and any existing metering equipment may not be moved or relocated without the District's consent. The County will operate and maintain the metering equipment. The District will have the right to install a flow regulator to better facilitate the enforcement of this Agreement. Installation of the flow regulator will be at the sole discretion of the District.

E. Payment for Retail Service. The County will pay the City directly for retail water and wastewater services furnished to the Park pursuant to the Renewed City Service Contract.

Section 3. Default by Either Party. In the event of default by a party, the nondefaulting party may give to the defaulting party written notice of such default specifying the failure or default relied upon. If the defaulting party fails to fully cure the default specified in such notice within thirty days after receipt of such notice, the nondefaulting party will have the right to terminate this Agreement as of the date of the event of the default, and to thereafter pursue all other legal or equitable remedies. The nondefaulting party may employ attorneys to pursue its legal rights and if it prevails before any court or agency of competent jurisdiction, the defaulting party will be obligated to pay all expenses incurred by the nondefaulting party, including reasonably attorneys fees. In addition to all other remedies available to the District, it will have the right to disconnect the County from the District's system following 14 days written notice and terminate this Agreement if, for any reason, the County violates any provision of this Agreement. Upon termination of this Agreement, the County will be solely

responsible for all actual costs and standard District fees related to disconnection from the District's systems.

Section 4. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance is ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances will not be affected thereby.

Section 5. Modification. This Agreement will be subject to change or modification only with the mutual written consent of all parties.

Section 6. Assignability. This Agreement will not be assignable by the County without the prior written consent of the Board of Directors of the District, which consent will not be unreasonably withheld.

Section 7. Applicable Law. This Agreement will be governed by, and construed in accordance with the laws of the State of Texas. All of the obligations contained in this Contract are performable in Williamson County, Texas.

Section 8. Parties at Interest. This Agreement will be for the sole and exclusive benefit of the parties hereto and will never be construed to confer any benefit to any third party.

Section 9. Waiver. Each party may specifically, but only in writing, waive any breach of this Agreement by the other party, but no such waiver will be deemed to constitute a waiver of similar or other breaches by such other party.

Section 10. Notices. All notices to the District must be in writing and mailed by Certified Mail, Return Receipt Requested, addressed to:

Vista Oaks Municipal Utility District
c/o Armbrust & Brown, PLLC
Attn: John W. Bartram
100 Congress Avenue, Suite 1300
Austin, Texas 78701

with a copy to:

Vista Oaks Municipal Utility District
c/o Crossroads Utility Services LLC
Attn: Andrew Hunt
2601 Forest Creek Drive
Round Rock, TX 78665

All notices to the County must be in writing and mailed by Certified Mail, Return Receipt Requested, addressed to:

Williamson County
c/o: Dan A. Gattis, County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

with a copy to:

Williamson County
c/o: Randy Bell, Williamson County Parks Director
219 Perry Mayfield
Leander, TX 78641

Any party may change its address by giving written notice of such change to the other party.

Section 11. Term. This Agreement will be in force and effect for a term of ten years from the date of the Renewed City Service Contract.

Section 12. Effective Date. The effective date of this Agreement (the "Effective Date") will be the date that the District grants the County's request for pass-through service by executing this Agreement after receipt from the County of (a) the County's fully executed counterpart of this Agreement; (b) all payments required hereunder; and (c) a fully executed copy of the Renewed City Service Contract.

Section 13. Multiple Originals. This Agreement may be executed in a number of counterparts, each of which will for all purposes, be deemed to be an original, and all such counterparts will together constitute and be one and the same instrument.

Section 14. Entire Agreement. This Agreement, including Exhibits, constitutes the entire agreement of the parties and, upon the Effective Date, supersedes all prior agreements and understandings between County and the District, including, without limitation, the Original Pass-Through Agreement.

Section 15. Authority. Each party represents and warrants that it has the full right, power, and authority to execute this Agreement and all related documents. Each person executing this instrument on behalf of a party represents that he or she is an authorized representative of and has the authority to sign this document on behalf the respective party.

* * *

[signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the Effective Date.

DISTRICT:

VISTA OAKS MUNICIPAL UTILITY
DISTRICT

Douglas Mink, President
Board of Directors

COUNTY:

WILLIAMSON COUNTY, TEXAS

By: 

Name: _____

Title: _____

EXHIBIT "A"
PARK PROPERTY



EXHIBIT "B"
RENEWED CITY SERVICE CONTRACT

EXHIBIT "C"
POINTS OF CONNECTION

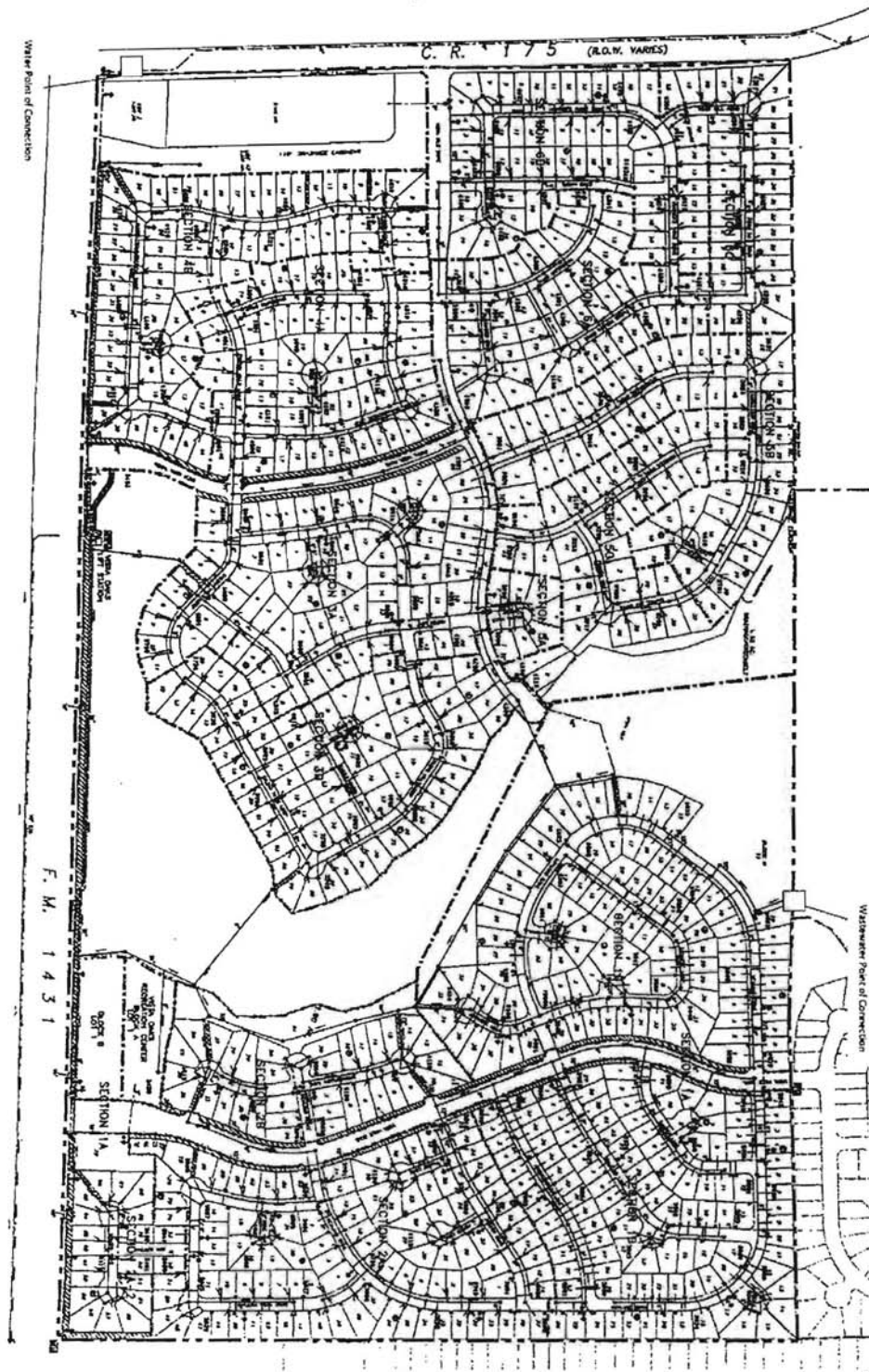


Exhibit C