

HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5

AMENDED ORDER ESTABLISHING RATES AND CHARGES AND ADOPTING
RULES AND POLICIES REGARDING THE DISTRICT'S UTILITY SYSTEMS

(May 21, 2018)

Under Section 49.212, Texas Water Code, the Board of Directors (the "Board") of Hays County Municipal Utility District No. 5 (the "District") is authorized to adopt and enforce all necessary charges, fees or rentals for providing District facilities or services.

Under Section 54.205, Texas Water Code, the Board is authorized to adopt and enforce reasonable rules and regulations to: (i) secure and maintain safe, sanitary and adequate plumbing facilities as part of its sewer system; (ii) to preserve the sanitary condition of all water controlled by the District; (iii) to prevent waste or the unauthorized use of water; or (iv) to regulate privileges on any land or easement controlled by the District.

IT IS, THEREFORE, ORDERED BY THE BOARD AS FOLLOWS:

I. General Policies.

A. Definitions. For purposes of this Order, the following terms have the meanings indicated:

1. "Board" means the Board of Directors of the District.
2. "BOD" or "Biochemical Oxygen Demand" means the quantity of oxygen utilized in the biochemical oxidation of organic matter as determined by standard laboratory procedures for five days at 20° C. expressed as a concentration in mg/l.
3. "Builder" means a developer, contractor, commercial builder, or homebuilder in the District.
4. "Connection" means each residential unit occupied by a separate family, including separate apartments located within a single building, and each business unit occupied by a separate business, including separate establishments within a single building.
5. "COD" or "Chemical Oxygen Demand" means the measure of the oxygen equivalent of the organic matter content of a sample that is susceptible to oxidation by a strong chemical oxidant as determined by standard laboratory procedures as specified in Standard Methods expressed as mg/l.
6. "Commercial connection" means any property improved for a use other than one single-family or duplex residence, including a commercial or industrial development, a multi-family residential development (including apartment complexes and condominiums), a school facility, or any other development or structure that does not constitute one single-family or duplex residence.
7. "District" means Hays County Municipal Utility District No. 5.
8. "District's representative" means the general manager of the District, another representative or employee of the District acting under the direction of the Board or the

general manager, or an employee of the PUA acting under the authority of the “Contract for Billing and Disconnection of Retail Water Services” between the District and the PUA.

9. “District’s Systems” means the District’s Wastewater System, the District’s drainage and water quality facilities, and the District’s reclaimed water irrigation systems.

10. “District’s Wastewater System” means the District’s wastewater collection, treatment, and disposal system.

11. “Dripping Springs ISD” means Dripping Springs Independent School District.

12. “Dripping Springs ISD Property” means the 49.1-acre tract of land owned by Dripping Springs ISD and located within the District, which is more particularly described in the Special Warranty Deed recorded in Volume 3150, Page 749, Official Public Records of Hays County, Texas.

13. “Fee Unit Equivalent” or “FUE” means one single-family or duplex residential dwelling unit or, in the case of a commercial customer, its equivalent under the following schedule:

<u>Water Meter Size</u>	<u>Fee Unit Equivalent</u>
5/8” simple	1
3/4” simple	1
1” simple	2.5
1 1/2” simple	5
2” simple	8
2” compound	8
2” turbine	10
3” compound	16
3” turbine	24
4” compound	25
4” turbine	42
6” compound	50
6” turbine	92
8” compound	80
8” turbine	160
10” compound	115
10” turbine	250
12” turbine	330

14. “Grease Trap” means a receptacle, structure, or mechanical device used by a commercial customer to intercept, collect, separate, and restrict the passage of fat, oil, grease, organic, inorganic, liquid, semi-liquid, semi-solid, or solid waste from wastewater.

15. “Industrial Waste Regulations” means the regulations governing the discharge of Non-Domestic Waste attached as Exhibit “A”.

16. “mg/l” means milligrams per liter.

17. “Non-Domestic Waste” means any wastewater or discharge other than Normal Wastewater, as defined in the Industrial Waste Regulations.

18. “Parten Ranch Agreement” means the “Wholesale Wastewater Services and Capacity Agreement” dated effective September 14, 2015, as amended and assigned, by and among the District, HM Parten Ranch Development, Inc., a Texas corporation, and Spring Hollow Municipal Utility District.

19. “Parten Ranch Developer” means the developer of the Parten Ranch Development.

20. “Parten Ranch Development” means the single-family residential project generally shown on Exhibit “C” having a quantity of wastewater service of no more than the Wholesale Service and Capacity Commitment (as defined in the Parten Ranch Agreement).

21. “Parten Ranch District” means a utility district created under Chapter 54 or Chapter 51 of the Texas Water Code over all or a portion of the Parten Ranch Development.

22. “PUA” means the West Travis County Public Utility Agency.

23. “Residential connection” means a single-family residence located on a separately-metered, individual lot, and does not include a multi-family residence or apartment complex.

24. “Rules” means all rules and regulations adopted by the District under Section 54.205, Texas Water Code, including the provisions of this Order and the Industrial Waste Regulations.

25. “Shops at Highpointe Property” means the 9.73-acre tract of land located at the corner of U.S. Highway 290 and Sawyer Ranch Road, which is more particularly described in the Substitute Trustee’s Foreclosure Sale Deed recorded under Instrument Number 2013-13037213 (Volume 4792, Page 451), Official Public Records of Hays County, Texas.

26. “TCEQ” means the Texas Commission on Environmental Quality, or its successor agency.

27. “TSS” or “Total Suspended Solids” means the total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid that is removable by laboratory filtering expressed in mg/l.

28. “Uniform Plumbing Code” means the Uniform Plumbing Code, 2003 Edition, as published by the International Association of Plumbing and Mechanical Officials, as amended or superseded from time to time.

29. “Winter-averaging period” means the preceding December, January and February, unless a different time period is approved by the Board.

B. All Services Charged. At no time will the District render services without charge to any person, firm, corporation, organization, or entity.

C. Provisions of this Order Constitute Service Agreement. All customers receiving utility service from the District are subject to the requirements of this Order. The provisions of

this Order constitute a service agreement between the District and each customer receiving utility services from the District. By requesting or accepting utility services from the District, each customer agrees to comply with the provisions of this Order.

II. Connections to the District's Systems; Construction of the District's Systems.

A. Preconstruction Meeting. Prior to installing underground cables or other facilities or excavating in the area of the District's Systems, representatives of Builders and/or utility companies must meet with the District's representative to file their construction plans and schedules and to review the engineering plans illustrating the location of the District's lines and other facilities. The Builders and/or utility company must determine the location of all utilities and facilities in the work area and will be responsible for the immediate repair of any damage to the utilities, services, and facilities that may result from their work and all costs and expenses incurred by the District as a result of such damage. The utilities, facilities, and services to which this provision applies include, but are not limited to, street lights, electric lines, boxes and transformers, natural gas facilities, television cable facilities, water lines, wastewater lines, telephone facilities, curbs and concrete flat work, irrigation systems, and reclaimed water irrigation systems.

B. Applications for Connections.

1. Any party desiring to make a connection to the District's Systems must submit an application to the District's representative in the form approved by the Board. The applicant must, upon request, furnish the District's representative with evidence that the party who will actually install the tap and connecting line has comprehensive general liability insurance in the minimum amounts of \$300,000 bodily injury and \$500,000 property damage, with an underground rider and a completed operations rider.

2. The District's representative will review all applications for connections to the District's Systems. If the District's representative finds that the materials to be used and the procedures and methods to be followed in laying the line and making the connection are equal to or better than the standards established by the Uniform Plumbing Code and are in compliance with all terms and conditions of this Order, the District's representative may approve the application and issue a permit for the proposed connection, subject to such terms or conditions as the District's representative deems necessary or convenient to accomplish the purpose and objectives of the Rules.

C. Construction of Connecting Facilities. After authorization is granted by the District's representative, the party desiring to make a connection to the District's Systems may proceed with construction, but before the connecting line or lines and any connections to the District's Systems are covered or enclosed with dirt or any other material, the District's representative must inspect the construction to confirm that the lines and connection have been properly installed in accordance with the requirements of this Order, the connection permit, and the Uniform Plumbing Code. The District's representative will also confirm whether the bedding materials used or to be used to cover or enclose the connecting line and connections are suitable under the standards required by this Order, the connection permit, and the Uniform Plumbing Code. The person to whom the connection permit is issued is responsible for covering or enclosing the connecting line and connections with proper materials as authorized and approved by the District's representative. The person making a tap or installing a service line must backfill any cuts made in paved streets. The cuts must be filled with sand, road base, and cement materials compacted to standard acceptable densities as established by the District's representative and covered with paving material in a manner acceptable to the District. All

wastewater and reclaimed water irrigation connection lines and materials will be furnished by the party installing the lines and making the connections.

D. Lift Stations. All private lift stations required for wastewater service to an individual customer must be installed by the customer's plumber at the customer's expense. The District's engineer must approve the plans for any such lift station prior to the time construction is initiated, and the customer who will be served by the lift station must enter into an agreement with the District prior to initiation of utility service that sets forth applicable inspection and maintenance requirements, includes the customer's agreement to pay all costs associated with the inspection, operation, maintenance, repair, or replacement of the lift station, and provides for continuing access to such lift station by the District's representative.

E. Scheduling Utility Connections and Lift Station Installation. An applicant must schedule any new wastewater utility connections by notifying the District and paying all required District fees a minimum of 15 business days before the date the connection is desired to be made. Installation of private lift stations must be scheduled through the District's representative a minimum of 15 business days in advance of the date the installation is required.

F. Payment of Fees. Any party desiring to make a connection to the District's Systems must pay all applicable fees required by this Order and the Rules to the District's representative at the time the application for such connection is made. No connection may be made until all fees for the requested connection and any outstanding fees relating to any prior connections by the applicant are paid. In addition, any non-routine charges incurred by the District in connection with any wastewater or reclaimed water tap and/or inspection will be the responsibility of the applicant for such connection and will be payable to the District upon demand. **Any applicant that has any outstanding fees due to the District, including any previously backcharged but unpaid re-inspection fees, will not be permitted to make any additional connections to the District's Systems until all outstanding fees are paid.** Except as otherwise expressly provided in this Order, all fees and charges are non-refundable.

G. Reclaimed Water Service Agreement. Prior to the connection of any irrigation or other facilities to the District's reclaimed water irrigation system, the use of reclaimed water produced or provided by the District, or the sale of reclaimed water to any user, the District requires that such user execute a Reclaimed Water Service Agreement to be considered for approval by the Board of Directors of the District. In the event that the applicant for service requests substantial modifications to the form of such agreement approved by the District, the applicant will be responsible for the District's costs, including legal fees, in negotiation of any such changes, and the Reclaimed Water Service Agreement will not be approved or executed by the District until such costs have been reimbursed to the District.

III. Fee Schedule.

A. Service Initiation and Online Customer Account Profile Fees. A party desiring to receive service from the District's Systems must pay a \$6 application fee to initiate service and establish an online customer account profile with the District's online billing system. Service will not be initiated until this application fee is paid.

B. Tap and Tap Inspection Fee Schedule.

1. The District's wastewater tap fees are as follows:

<u>Meter Size</u>	<u>Tap Fee</u>
5/8" to 3/4"	\$500
1"	\$750
1 1/2"	\$1,000
2"	\$1,250
3"	\$1,500
4"	\$1,750
6"	\$2,000
8"	\$2,250
10"	\$2,500
12"	\$2,750
Larger than 12"	To be determined based upon installation, three times cost

2. The District's residential wastewater tap inspection fees are \$50 for the initial inspection. The District's commercial wastewater tap inspection fees are \$75 for the initial inspection. If more than one inspection is required before a tap is approved by the District, the residential and commercial wastewater tap re-inspection fees are \$50 for each additional inspection. The District's backflow device inspection fees are \$75. The District's fee for inspection of any private lift station required for wastewater service to an individual customer will be \$300 for the initial inspection and \$300 for each re-inspection or subsequent periodic inspection. Inspection fees will be payable to the District's representative at the time the inspection is requested. **Any customer that has any outstanding fees due to the District, including any previously backcharged but unpaid re-inspection fees, will not be permitted to make any additional connections to the District's Systems until all outstanding fees are paid.**

3. The District's reclaimed water tap fees are as follows:

<u>Meter Size</u>	<u>Tap Fee</u>
5/8" to 3/4"	\$500
1"	\$750
Larger than 1 1/2"	To be determined based upon installation, three times cost

C. Disconnect and Reconnection Fees. A customer whose service is disconnected, whether because of a customer's delinquency or upon a customer's request, will be charged the following disconnect and reconnection fees:

1. Disconnection fee of \$100 for 5/8" or 3/4" meter;
2. Disconnection fee in the amount of the **actual, reasonable cost** for meters larger than 3/4";
3. Reconnection fee of \$50 during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday); and
4. Reconnection fee of \$150 during weekends or after normal business hours (after 5:00 p.m. and before 8:00 a.m. Monday through Friday).

D. Service Call Charges. If the District responds to a customer service call regarding a sewer line blockage, and the District's operator determines that the blockage is on the customer's side of the District connection, the customer will be billed all costs incurred by the District in responding to, determining the cause of and, if appropriate, clearing the blockage.

E. Additional Charges. Any non-routine charges incurred by the District in connection with any wastewater or reclaimed water tap and/or inspection will be the responsibility of the applicant for such connection and will be paid to the District upon demand.

IV. Security Deposits.

A. Security Deposits, Generally. A security deposit must be paid to the District's representative by each customer prior to the District's providing service to that customer. Security deposits are not transferable and will be held by the District to assure the prompt payment of all bills for service to the customer. At its option, the District may apply all or any part of a customer's security deposit against any delinquent bill of the customer. Upon any discontinuation of service, whether because of the customer's delinquency or upon the customer's request, the security deposit will be applied against any amounts due to the District, including any disconnection fees or other charges. Any portion of the deposit remaining after deduction of amounts due to the District will be refunded to the customer. In no event will any security deposit bear interest for the benefit of the customer.

B. Customer Security Deposits. An initial security deposit of **\$100 per FUE** is required if the service address is occupied by the property owner ("Owner") and the utility account is in the name of the Owner. An initial security deposit of **\$300 per FUE** is required if the service address is not occupied by an Owner or the utility account is not in the name of an Owner occupying the service address. The customer will have the burden of proof to establish that it is an Owner, and a customer will be presumed to not be an Owner unless: (a) the customer provides a copy of a recorded deed showing that the customer is the record owner of the property in question; or (b) the customer provides a copy of a property tax bill or property tax receipt showing that the customer is the owner of the property in question. In either case, the document provided by the customer will be verified by the District's representative through a check of the county property records.

C. Additional Customer Security Deposits. If a customer is given notice of disconnection due to a failure to make timely payment of the District's utility bills and fails to pay all past-due amounts by the time and date specified on the notice of disconnection, then, regardless of whether or not service is physically disconnected, the District will require an additional security deposit of **\$100 per FUE** for each disconnection, up to a maximum total deposit of **\$400 per FUE**. This additional deposit and any reconnection fees must be paid prior to reconnection of service. Customer security deposits must be in the form of cash, money order, or other form of payment acceptable to the District's representative.

D. Builder Deposit. Each Builder must, in addition to the deposit required under Sections B and C, above, pay a security deposit of **\$3,000** to the District's representative prior to the Builder's initiation of any development or homebuilding program in the District. If a Builder fails to pay any fees or charges coming due to the District in a timely manner, the fees and charges will be deducted from the deposit, and the Builder will be required to make a payment to the District in order to restore the amount of the security deposit to its original **\$3,000** level. Each wastewater service connection must be inspected and approved by the District's representative prior to its being covered. If this procedure is not followed, the District's representative may require the Builder, at its sole cost, to uncover or televise the

service connection so that it can be inspected. Any cost to the District for additional inspections, work resulting from a connection being covered prior to inspection, or damages caused by the Builder or its employees or contractors, or other costs incurred by the District that are attributable to the Builder will be deducted from the security deposit and the Builder will be required to pay any amount necessary to fully restore the security deposit to its previous balance. The District's representative will not approve any additional connections for a Builder until the Builder's required security deposit has been established or reestablished at the full amount required by this Order. The security deposit will be refunded when the Builder completes its development or building program within the District and pays all sums due and owing to the District.

V. Prohibited Waste; Industrial Waste Regulations; Non-Domestic Waste Fees and Surcharges.

A. Prohibited Waste.

1. **Non-Biodegradable Material.** No waste material that is not biologically degradable, including mud and debris accumulated during construction, may be discharged into the District's Wastewater System.

2. **Surface Runoff; Storm Water.** No surface runoff water or storm water, including downspouts or yard or area drain runoff, may be discharged into the District's Wastewater System.

3. **Well Water.** No well water may be discharged into the District's Wastewater System unless specifically approved in writing by the Board.

4. **Non-Domestic Waste.**

a. No Non-Domestic Waste may be discharged into the District's Wastewater System without the prior approval of the District's representative. The District's representative will review each application to discharge Non-Domestic Waste and make a recommendation to the Board as to approval or denial of the application. If an application is approved, the Board will establish rates and charges that cover, but are not limited to, the cost of waste treatment, taking into account the volume and character of the Non-Domestic Waste and all other waste treated, any special techniques of treatment or operation required for the Non-Domestic Waste, and any administrative expenses incurred by the District. These rates and charges must be at least sufficient to provide an equitable system of cost recovery that is sufficient to produce revenues, in proportion to the percentage of Non-Domestic Waste to be treated relative to the total waste load to be treated by the District, so as to provide for operation and maintenance of the treatment works, for the amortization of the District indebtedness for the cost of its waste collection and treatment system, and for any additional costs necessary to provide adequate waste treatment to meet the waste discharge requirements applicable to the District on a continuing basis.

b. If, in the opinion of the District's representative, pretreatment of any Non-Domestic Waste is necessary to prevent harm to the District's Wastewater System or to prevent interference with the proper and efficient operation and maintenance of the District's Wastewater System, pretreatment will be required as a condition to the District's receipt and treatment of the Non-Domestic Waste.

c. If the District's engineer recommends against accepting the Non-Domestic Waste into the District's Wastewater System under any conditions, the District's representative will deny the application.

B. Regulations for Discharge of Industrial Waste. The District's regulations for discharge of industrial waste are attached as Exhibit "A" and incorporated into this Order by reference. All discharges to the District's Wastewater System must comply with the terms of such regulations.

C. Application Fee. An applicant that proposes to discharge Non-Domestic Waste into the District's Wastewater System must complete the District's required application and pay the District an application fee of **\$250**. No customer may discharge Non-Domestic Waste into the District's Wastewater System unless the customer has received a permit from the District authorizing such discharge.

D. Permit Fee. Each customer who is issued a permit for disposal of Non-Domestic Waste must pay the District an annual permit fee of **\$500** on or before January 31 of each year.

E. Non-Domestic Waste Surcharge.

1. Payment of Surcharge for Extra Strength Wastewater. In addition to compliance with all other requirements of this article, any person discharging extra strength wastewater to the District's Wastewater System must pay a monthly surcharge for the additional costs of handling and treatment of such extrastrength wastewater, in addition to the District's standard sewer service charges.

2. Cost Factors. The cost factors for extra strength wastewater are based on the capital and operating cost of wastewater facilities to provide treatment for the reduction of excessive BOD, COD, and TSS.

3. Computation of Surcharge. For extra strength wastewater having a COD concentration of 2.25 or more times that of the BOD concentration, the surcharge will be based on the COD category in lieu of the BOD category. Computations of surcharges will be based on the following formula:

$$S = V \times 8.34 (A [BOD - 300] + B [TSS - 300])$$

or

$$S = V \times 8.34 (C [COD - 675] + B [TSS - 300])$$

S: Surcharge in dollars that will appear on the customers' monthly bills.

V: Wastewater actually billed in millions of gallons during the billing period.

8.34: Pounds per gallon of water.

A: Unit charge in dollars per pound of BOD.

BOD: BOD strength in mg/l by weight.

300: Normal BOD strength in mg/l by weight.

B: Unit charge in dollars per pound for TSS.

TSS: TSS concentration in mg/l by weight.

300: Normal TSS concentration in mg/l by weight.

C: Unit charge in dollars per pound for COD.

COD: COD strength in mg/l by weight.

675: Normal COD strength in mg/l by weight.

If the strength or concentration for BOD, TSS, or COD is less than the normal strength for that category, no surcharge will be applicable for that category. No credit will be given against the total surcharge if the strength or concentration of any category is less than normal.

4. Current Unit Rates. The unit charges in dollars per pound used to assess the individual surcharges are:

<u>Parameter</u>	<u>Unit Charge Dollars/Pound</u>
BOD	0.4867
COD	0.2255
TSS	0.1049

5. Adjustment of Rates. All flow rates, BOD, COD, and TSS values used in determining the surcharge of Non-Domestic Waste customers will be reevaluated on a periodic basis as determined by the District's representative and adjusted to reflect any increase or decrease in wastewater treatment costs. If there is a major change in any customer's operations which causes changes in values, the values may be increased or decreased based on a study of the changes or actual measurements. Every person discharging wastewater to the District's Wastewater System will be responsible for notifying the District's representative of major changes in its operations affecting the quantity or quality of Non-Domestic Waste discharged. In the absence of such notification, the surcharge applicable to such customer will be based on the data available to the District at the time the surcharge is billed.

F. Prohibited Discharges. If the District determines that there has been a prohibited discharge under the Rules or this Order, the violator will be assessed and required to pay for all reasonable expenses of the District incurred in connection with the violation, the cost of any testing of the waste associated with such violation, and any damage to the District's Wastewater System.

G. Grease Traps. All commercial properties that include a restaurant or other use that involves the on-premises preparation of food for resale, including a commercial kitchen, must have installed a Grease Trap of a size and capacity approved by the District. Any such Grease Trap must be operated and maintained in accordance with all applicable federal, state, and local regulations and this Order. A commercial customer that owns or occupies property that is required to utilize a Grease Trap must: (1) cause the Grease Trap to be cleaned every two months, or when 50% of the height of the Grease Trap, as measured from the bottom of the Grease Trap to the invert of the outlet pipe, contains grease and solids; (2) completely remove all grease and other residue from the Grease Trap when the Grease Trap is cleaned; (3) cause all grease and other residue removed from the Grease Trap to be properly disposed of by a

permitted liquid waste hauler and in accordance with federal, state, and local regulations; (4) file a copy of the manifest confirming the cleaning and disposal with the District; and (5) retain the original manifest on file and make it available for inspection by the District for at least 12 months after the date of each cleaning. The District's representative may establish other requirements for Grease Traps as necessary to protect the District's Wastewater System.

H. Additional Costs and Expenses. Additionally, the District will be reimbursed for all costs and expenses, including legal and engineering costs and expenses, incurred in connection with the enforcement of this Article and/or the Industrial Wastewater Regulations as well as for any testing of the waste associated with such enforcement and for any damage to the District's Systems. The District may add such costs and expenses to the customer's bill, and failure to pay may result in the termination of service in accordance with this Order.

VI. Development Policies.

A. Subdivision Plan Review, and Other Development Approval Related Fees. All plans for wastewater, drainage, and reclaimed water irrigation facilities constructed within or to serve the District will be subject to review and approval by the District. No construction may be commenced until such plans are approved. Applicants for approval of construction plans for wastewater, drainage, or reclaimed water irrigation facilities will be responsible for the payment of all legal, engineering, and/or management fees incurred by the District for review of such plans and inspection of the facilities during construction. No facilities will be accepted for operation and maintenance by the District unless all required District inspections have been conducted, the facilities have been approved by the District's representative, and all related fees have been paid.

B. Subdivision Construction Inspection.

1. The District's subdivision construction inspection fees are as follows:
 - a. Total construction cost between **\$0** and **\$100,000**: 4.5% of total construction cost;
 - b. Total construction cost between **\$100,001** and **\$500,000**: 2.75% of total construction cost;
 - c. Total construction cost between **\$500,001** and **\$1,000,000**: 2.25% of total construction cost;
 - d. Total construction cost between **\$1,000,001** and **\$5,000,000**: 1.75% of total construction cost; and
 - e. Total construction cost over **\$5,000,001**: 1.5% of total construction cost.
2. Materials testing will be performed by the District, at the cost of the developer. Copies of all test results will be provided to the developer.
3. No connections to the District's Systems may be made unless all applicable subdivision construction inspections have occurred and all related inspection fees and materials testing fees have been paid.

C. Development and Utility Construction Agreements. Applicants who desire to obtain a service commitment, a utility construction agreement, a reimbursement agreement, or other type of development agreement with the District must pay all legal, engineering, and/or management fees incurred by the District in negotiation of these agreements. No agreement will be executed by the District or become effective until these fees are paid.

D. Service Commitments. Because the District's wastewater capacity is a limited resource, the Board desires to adopt policies and procedures for allocating capacity, including approving written service commitments, that will further the purposes of the District, provide for the orderly development of the property within the District, assure the availability of service as needed, and protect the integrity of the District's Systems. Accordingly, all service commitments issued by the District will be subject to this Article in order to enable the District to plan for future needs; assure the ability of the District to provide service on a uniform, nondiscriminatory basis; and provide standard criteria for the evaluation, issuance and retention of service commitments.

1. All service commitments issued by the District will be subject to (i) completion of all necessary facilities; (ii) payment of all applicable fees; (iii) all of the terms and conditions of and performance under all of the District's contracts and agreements pertaining to or affecting the District's wastewater and reclaimed water services, including but not limited to those with HM Highpointe Development, Inc., the PUA, the Parten Ranch Developer (including, without limitation, HM Parten Ranch LP and HM Parten Ranch Development, Inc.), and the Parten Ranch District (including, without limitation, Spring Hollow Municipal Utility District); and (iv) the policies and procedures of the District, including the Rules.

2. Any applicant requesting a service commitment from the District must submit a written application executed by the owners of the property for which the service commitment is being requested. The application must include the applicant's agreement to pay all fees incurred by the District in connection with the evaluation of the application and to grant all easements required by the District to serve the property in question without compensation. An escrow in the minimum amount of **\$1,000** will be required to assure the payment of all fees.

3. The applicant must also submit:

a. 10 copies of a utility plan showing the property, the proposed utility facilities and sizing, any required easements, and all drainage patterns.

b. 10 copies of a preliminary engineering report, including a land use plan demonstrating the utility service requirements for the property, prepared and sealed by a professional engineer registered in the State of Texas.

c. Proof of ownership of the property, and proof of authority of the party signing the application.

4. The Board may approve a service commitment if:

a. All application requirements have been satisfied;

b. Either (i) the District's wastewater or reclaimed water capacity (as applicable) is or will be sufficient to serve the property, or (ii) the

applicant and the District have entered into an agreement that provides for the construction of facilities necessary to provide sufficient capacity to serve the property; and

c. It finds that the District's Systems are sufficient or will be sufficient to serve the proposed development without adversely impacting existing utility customers of the District.

5. No service commitment will be issued unless the applicant has paid, concurrently with the date of issuance of the service commitment, a non-refundable fee (the "Service Commitment Fee") equal to 10% of all estimated District fees for the property, including, without limitation, the District's tap fees and inspection fees (the "Estimated Fees"), as determined by the District's representative based on the District's then-current Order Establishing Rates and Charges and Adopting Rules and Policies Regarding the District's Utility Systems. The Service Commitment Fee will be applied against the Estimated Fees.

6. In order to allow the District to accurately plan service capacity based on actual usage rather than speculative usage, a service commitment will expire and terminate:

a. one year from the date of issuance unless the holder has, by that date, paid all the Estimated Fees for the property, as determined by the District's representative based on this Order, as amended to the date of the estimate and then in effect; and

b. 18 months from the date of issuance unless the holder has, by that date, completed construction, made a connection to the District's Systems, paid all applicable District fees, including tap fees, inspection fees, security deposit, and other applicable fees for the property, based on this Order, as amended to the date of the connection and then in effect (the "Actual Fees") and initiated services to the property.

7. If a service commitment terminates, the Service Commitment Fee will not be refunded, offset, or credited against the Actual Fees, but will be retained as property of the District. The balance of any Estimated Fees that has been paid will not be refunded, but will be applied as a credit against the Actual Fees at the time the property is developed and service initiated.

8. If full development of a tract that has been issued a service commitment results in the use of less service than that which has been committed, the remaining unused capacity will revert back to the District for redistribution by the District. The amount of service remaining after full development will be determined by the District's engineer, based on the meter size and any subdivision plat, site plan, and zoning approved for the property. Service commitments will be issued for specific tracts, and may not be transferred to any other property.

9. The Actual Fees applicable to a tract will be determined at the time utility service is initiated, based on the actual meter size; any subdivision plat, site plan, and zoning approved for the property; and this Order, as amended and then in effect. If the ultimate use of a tract that has been issued a service commitment requires a different amount of service than that upon which the Estimated Fees were based, the District's representative will make any adjustments that are necessary at the time a connection to the District's Systems is made, so that the Actual Fees will correspond to the size of meter installed and the service required to be provided. Any shortfall between the Estimated Fees and the Actual Fees must be paid before a

service connection is made. Any excess of the Estimated Fees over the Actual Fees will be credited against the customer's future billings.

VII. District Approvals; Escrow for Expenses.

Applicants for service commitments, out-of-district service, construction plan review and/or inspection, subdivision plan review and/or inspection, and of other types of District approvals, including utility construction agreements or other types of development agreements, are responsible for the payment of all legal, engineering, and management fees incurred by the District in reviewing their application and negotiating or preparing any related approvals or agreements. The District's representative will establish a deposit amount equivalent to the estimated consultant fees that are expected to be incurred in connection with the application, and the applicant must deposit this amount with the District prior to any review or processing work being initiated. All consultant fees associated with the application incurred by the District will be charged against the deposit. Upon completion of the review process, the applicant must pay any fees incurred by the District in excess of the deposit. Any excess deposit remaining after payment of all fees will be returned to the applicant. No service commitment or plan approval will be issued or agreement will be effective by the District until all fees are paid.

VIII. Service Rates.

A. Monthly In-District Wastewater Rates. The District's monthly in-District wastewater rates are as follows:

1. Base Rate: \$30 per FUE, which does not include any wastewater service
2. Gallonge Charge: \$4.50 per 1,000 gallons

B. Dripping Springs ISD Wastewater Rates.

1. Minimum Monthly Charge: \$6,700, which does not include any wastewater service
2. Gallonge Charge: \$10.84 per 1,000 gallons
3. All costs of installation, repair, maintenance, and/or replacement of the wastewater line, meter, lift station, generator, and appurtenant facilities required for service to the Dripping Springs ISD Property will be charged to Dripping Springs ISD and will be due and payable upon demand.

C. Shops at Highpointe Property Wastewater Rates. To be determined. All costs of installation, repair, maintenance, and/or replacement of the wastewater line, meter, lift station, generator, and appurtenant facilities required for service to the Shops at Highpointe Property will be charged to the owner of the Shops at Highpointe Property and will be due and payable upon demand.

D. Parten Ranch Development Monthly Out-of-District Wholesale Wastewater Rates. The rates, charges, and fees for out-of-District wholesale wastewater service to the Parten Ranch Development and the Parten Ranch District pursuant to the Parten Ranch Agreement, are as follows:

1. Minimum Monthly Charge: \$600, which does not include any wastewater service

2. Gallonge Charge: \$4.71 per 1,000 gallons

3. All costs of installation, repair, maintenance, and/or replacement of the wastewater lines, meter, wastewater effluent irrigation disposal facilities, and appurtenant facilities required for service to the Parten Ranch Development will be initially charged to the Parten Ranch Developer and will subsequently be charged to the Parten Ranch District upon confirmation of its creation, and will be due and payable upon demand.

E. Other Out-of-District Wastewater Rates. To be determined.

F. Reclaimed Water Rates. To be determined.

G. Calculation of Wastewater Charges.

1. Residential Connections. Bills for wastewater service to residential connections will be computed: (i) on the basis of the average amount of water used by the customer during the winter season, as determined by the average of the lowest two monthly readings of the customer's water meter for the preceding winter-averaging period; or (ii) on the basis of the customer's current monthly water bill, whichever is less; however, any residential customer who did not have an approved wastewater connection during the prior winter-averaging period will not be entitled to use the winter averaging method and will be billed on the basis of: (A) the customer's current monthly water usage; or (B) on the basis of 8,000 gallons of water usage per FUE per month (based on the conversion table contained in Article I), whichever is less.

2. Adjustments to Winter Average for Residential Connections. The Board may, but will not be obligated to, make an adjustment to the winter average for a residential connection recommended by the District's representative based upon the District's representative's review of the customer account and determination that the customer's established winter average is not representative of the customer's actual wastewater usage due to an extraordinary situation or unusual circumstance. Additionally, if a residential customer experiences a water leak during the winter-averaging period, the customer may submit a written leak adjustment request to the District detailing the circumstances of the leak. All requests must be accompanied by a copy of all invoices and documentation evidencing the leak and confirming that the leak has been repaired. Upon receipt of a complete request, the District's representative may establish an alternative winter-averaging period for such residential customer based upon the customer's prior history, as determined by the District's representative.

3. Commercial Connections. Bills for wastewater service to commercial connections, other than to Dripping Springs ISD, will be computed: (i) on the basis of the average of the monthly readings of the customer's water meter during the winter-averaging period; or (ii) on the basis of the customer's current monthly water bill, whichever is less; however, if a commercial customer did not have an approved wastewater connection during the prior winter-averaging period, the customer's monthly wastewater charges will, at the District's option: (A) be calculated based upon the customer's current monthly water usage; or (B) be calculated by measuring actual sewage volume, on a basis acceptable to the District, at the expense of the customer.

4. Dripping Springs ISD Connections. Bills for wastewater service to Dripping Springs ISD will be computed on the basis of Dripping Springs ISD's current monthly water bill.

5. Parten Ranch Connection and Meter. Bills for out-of-District wholesale wastewater service to the Parten Ranch Development and the Parten Ranch District will be calculated by measuring actual sewage volume monthly based on monthly readings of the meter to be installed at the location at which all wastewater will pass from the facilities of the Parten Ranch District to be constructed for collection and transportation of wastewater from the Parten Ranch District's retail wastewater customers into the District's Wastewater System.

6. Irrigation Meters. No wastewater charges will be assessed for water utilized through a dedicated irrigation meter approved by the District.

H. Regulatory Assessments. A regulatory assessment of 1/2% of retail sewer charges will be added to each customer's monthly billing. These assessments are remitted by the District to the TCEQ and used by the TCEQ in performing its regulatory duties and in providing technical assistance and training to utilities.

IX. Rendering and Form of Bills.

A. Rendering of Bills. Bills for service will be rendered monthly. Service initiated less than one week before the next billing cycle may be billed with the following month's bill. One bill will be rendered for each connection.

B. Information to be Included on the Bill. The customer's bill will show the total amount due for service and any surcharge, the due date of the bill, the total amount due as penalty for nonpayment within a designated period, and the local telephone number or toll free number where the District's representative can be reached. If the due date falls on a Saturday, Sunday, or legal holiday on which banks are required to close in the State of Texas, the applicable period will be extended to the next business day.

C. Payment Obligation. If a customer does not receive a bill or bills, his obligation to make payment for services rendered is not diminished or released.

D. Overbilling and Underbilling. If billings for District services are found to differ from the District's rates for the services, or if the District fails to bill a customer for services, a billing adjustment will be calculated by the District's representative. If the customer is due a refund, an adjustment will be made for the entire period of the overcharges. If the customer was undercharged, the District will backbill the customer for the amount of the service actually used by the customer; provided, however, if the underbilling is \$25 or more, the District will offer the customer a deferred payment plan option for the same length of time as that of the underbilling.

E. Prorated Charges. When a bill is issued for a period of less than one month, the basic charge will be prorated based on the period during which service was provided.

F. Disputed Bills.

1. A customer may advise the District that a bill is in dispute by giving written notice to the District's representative. A dispute must be registered with the District

prior to the date of proposed discontinuance in order for a customer to avoid discontinuance of service as provided by this Order.

2. Notwithstanding any other provision of this Order, a customer is not required to pay the disputed portion of a bill that exceeds the amount of that customer's average monthly usage at current rates (an "Average Bill") pending the resolution of the dispute. For purposes of this section only, the customer's average monthly usage at current rates is the average of the customer's gross wastewater usage for the preceding 12-month period. If no previous usage history exists, consumption for purposes of calculating the average monthly usage will be estimated on the basis of usage levels of similar customers under similar conditions.

3. Notwithstanding any other provision of this Order, a customer's service will not be discontinued for nonpayment of that portion of a bill under dispute that exceeds an Average Bill pending resolution of the dispute. The customer must timely pay any billings not disputed and an amount per billing period equivalent to an Average Bill.

G. Equipment Damage Charges. The District will charge the responsible customer for all labor, material, equipment, and other costs necessary to repair or replace equipment and other facilities damaged due to equipment tampering or bypassing, improper erosion control, service diversion, or the discharge of wastes in violation of the terms of this Order. The District may charge for all costs necessary to correct service diversion or unauthorized taps where there is no equipment damage, including incidents where service is reconnected without authority. An itemized bill of these charges will be provided to the customer.

H. Late Charges. A late charge of 10% of the amount of the bill will be added on the Delinquency Date and this late fee will continue to be assessed each month while the delinquent amount remains unpaid.

I. District's Right to Sue. The District reserves the right to institute suit for the collection of any amounts due and unpaid, together with interest thereon at the maximum legal rate and reasonable attorneys' fees.

J. Dishonored Check Charge. The District reserves the right to charge a customer paying a bill with a dishonored or insufficient funds check an amount established from time to time by the District's representative, which amount will be based on the prevailing or usual charges made for dishonored checks and drafts by other vendors in the same general area as the District.

X. Protection of the District's Systems, Facilities, and Property.

A. Tampering or Damage Prohibited. It is unlawful for any person to tamper or interfere with; to obstruct access to; or, as the result of willful action, to injure, deface, or destroy any facilities that are a part of the District's Systems.

B. Unlawful Discharges. It is unlawful for any person to deposit, throw, drain, discharge, or otherwise cause to be injected into any sewer, manhole, catch basin, flush tank, or other facility that is a part of the District's Systems any debris or foreign substance that would interfere with the proper and routine functioning of the District's Systems, or to discharge any waste into the District's Systems:

1. other than through an authorized sewer tap for which all connection fees, deposits and other charges have been paid; or
2. generated on premises other than those for which the sewer tap was originally made; or
3. generated at a building other than that for which the sewer tap was originally made, unless approved in advance by the District's representative; or
4. of a type different from that contemplated at the time the sewer tap was originally made, unless approved in advance by the District's representative.

C. Service Line Maintenance. Each customer is responsible for the maintenance of the sewer service line from the point of connection to the District's Wastewater System to the buildings or premises served. All sewer service lines must be maintained in such a manner as to prevent the infiltration of water or exfiltration of wastewater. Each customer is responsible for the maintenance of the reclaimed water service line from the point of connection to the District's reclaimed water irrigation system to the property served.

D. Water Wells. Water wells may not be connected to the District's Wastewater System.

E. Protection of District Facilities and Property. The District's drainage and water quality systems, including, without limitation, all drainage easements, channels, storm sewer facilities, ponds, and all other facilities owned, maintained, or controlled by the District for the purpose of collecting, controlling, storing, managing, or distributing storm and flood waters or run-off, will be protected from abuse, in order to assure the proper functioning of all such facilities for the benefit of all property owners and residents of the District. It is a violation of the Rules to place, deposit, or discharge, or cause to be placed, deposited, or discharged, any foreign materials or debris (including, but not limited to, motor oil, grass or tree clippings, or construction debris) on or into any District property (including, without limitation, the District's drainage systems). Prior to construction of any improvements within the District, proper erosion control must be installed. These devices must be maintained in place during construction and, upon completion of construction, all construction debris and rubbish must be removed from the construction site, and any damage to the District's easements or facilities must be repaired at the expense of the Builder or property owner constructing the improvements. Any person or entity that violates the terms of this section will be subject to a penalty in the amount of **\$500** per violation, and will also be liable for all attorneys' fees incurred by the District and costs of court. The District may add the amount of any penalties or costs imposed by this section to the customer's utility bill, or the District may deduct the amount of any penalties or costs imposed as a result of a violation of this section from a customer's security deposit or any other amounts held by the District and may further require that the customer replenish the deposit by an equivalent amount.

XI. Disconnection and Reconnection of Service.

A. Notification of Alternative Payment Programs or Payment Assistance. If a customer advises the District's representative of his or her inability to pay his or her bill or need for assistance with his or her bill payment, the District's representative will inform the customer of all available deferred payment plans available from the District and the eligibility requirements and procedure for applying for them. A deferred payment plan is any arrangement or agreement between the District and a customer under which an outstanding bill

will be paid in installments that extend beyond the due date of the next bill. All deferred payment plans must be in writing. The District's representative may suspend the termination of services to customers for up to 90 days based upon the District's representative's determination that the customer is making a good faith effort to pay the District's account; however, extensions beyond 90 days must be approved by the Board.

B. Post-Bankruptcy Services. In the event of any District customer's bankruptcy, amounts due for pre-bankruptcy services will be posted to the customer's existing account and amounts due for post-bankruptcy services will be posted to a separate account. The customer will be required to provide the District with adequate assurance of payment for services rendered after the date of the bankruptcy filing, in the form of a security deposit satisfying the requirements of this Order. Any existing security deposit will be held by the District as security for sums due for pre-bankruptcy services and will not be credited towards the security deposit for post-bankruptcy services. If the customer fails to furnish the required security deposit for post-bankruptcy services, the District may discontinue service to the customer in accordance with the provisions of this Order.

XII. Termination of Service.

A. Termination with Notice. District service may be terminated after proper notice for any of the following reasons:

1. within 30 days from the date of the issuance of a delinquent bill, the customer has neither (a) paid the delinquent bill and all other past-due bills from the District, nor (b) entered into a written deferred payment plan and made all payments required under the plan;
2. the customer has failed to comply with the terms of a deferred payment plan;
3. the customer has paid by a check which has been rejected for insufficient funds, closed account, or for which a stop payment order has been issued;
4. violation of the Rules pertaining to the use of service in a manner that interferes with the service of others or the operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation; or
5. failure to comply with deposit arrangements as required by Article IV of this Order.

If a Builder fails to make timely payment of any bill due and owing to the District, the District may, after proper notice, terminate all wastewater services being provided by the District to that Builder.

B. Termination of Water Service by PUA for Non-Payment of Charges for District Wastewater Services. In accordance with the terms of the "Contract for Billing and Disconnection of Retail Water Services" between the District and the PUA, water service to a District customer who fails to pay wastewater charges due to the District will be disconnected following notice of termination given in compliance with this Order.

C. Termination Without Notice. District service may be terminated without notice (i) due to existence of a known dangerous condition, (ii) if service is connected without authority, or (iii) in instances of tampering with or bypassing the District's equipment, or other instances of diversion. If reasonable, given the nature of the hazardous condition, a written statement providing notice of and the reason for disconnection will be posted at the place of common entry or upon the front door of each affected structure as soon as possible after service has been disconnected.

D. Notice of Termination of Service.

1. Mailed Notice. Proper notice of termination of service consists of a separate written statement given by first-class mail, postage prepaid, at least 10 days prior to the stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. The information included in the notice will be provided in English and Spanish if necessary to adequately inform the customer. A statement notifying the customer that, if they are in need of assistance with payment of their bill, they may be eligible for alternative payment programs, such as deferred payment plans, and to contact the District's representative for more information, will be attached to or included on the face of the termination notice. The notice will advise the customer of the basis for the District's decision to disconnect service, the action required to avoid disconnection, and that he or she has the right to request a hearing on the matter by contacting the District's representative at least 48 hours before the stated date of disconnection.

2. Content of Notice. The notice will include (i) the intended date of disconnection; (ii) the office hours, telephone number and address of the District's representative's local office; (iii) the total past-due charges; (iv) all reconnect fees that will be required to restore water or sewer service if service is disconnected; and (v) that failure to pay past-due sewer charges will result in termination of water service and that water service will not be reconnected until all past-due and currently due sewer service charges and the sewer reconnect fee are paid.

3. Date of Termination. If notice is mailed, the stated date of disconnection may not fall on a holiday or weekend, but will be the next working day at least 10 days after the date of the notice.

E. Customer Appeal Procedures.

1. Informal Hearing. Upon receipt of a customer's protest of the termination of service, the District's representative will schedule an informal hearing with the customer and his representative prior to disconnection. The presiding officer at the informal hearing will be an individual who did not participate in the initial decision to pursue disconnection of the customer's service. The customer will be allowed to question the District's billing representative at the informal hearing regarding the basis for the decision to terminate service and present any testimony or evidence regarding the termination of service or its basis. The presiding officer will render a decision on the matter and state reasons for the decision and the grounds upon which the decision is based.

2. Appeal. The customer may appeal the decision of the presiding officer of the Board. If the customer posts a bond in an amount sufficient to cover the cost determined by the presiding officer to be due, the District will not proceed with termination of the customer's service until a final decision is made by the Board.

F. Disconnection. If payment of all delinquent and past due amounts has not been made by 5:00 p.m. on the date specified by written notice to the customer, and no other arrangements for payment have been made, service will be disconnected. In order to reconnect service, the customer must pay all delinquent and past-due amounts, plus the applicable reconnect fee. The reconnect fee will be due regardless of whether or not service has been physically disconnected. If payment is tendered after 2:00 p.m. on the date of disconnection, the customer must pay the after-hours reconnect fee in order to obtain same-day reconnection of service. If a customer defaults under a payment plan entered into with the District, termination procedures will immediately be initiated.

G. Disconnection on Holidays or Weekends. Unless a dangerous condition exists or the customer requests disconnection, service will not be disconnected on a day, or on a day immediately preceding a day, when personnel of the District are not available to the public for the purpose of accepting payments and reconnecting service.

H. Disconnection for Ill and Disabled. The District will not discontinue service to a delinquent residential customer permanently residing in an individually-metered dwelling unit if the customer establishes that discontinuance of service will result in a person residing at the residence becoming seriously ill or more seriously ill. Each time a customer seeks to avoid termination of service under this section, the customer must have the attending physician (for purposes of this section, the term "physician" means any public health official, including medical doctors, doctors of osteopathy, nurse practitioners, registered nurses, and any other similar public health official) call or contact the District's representative within 15 days of issuance of the bill and a written statement must be received by the District's representative from the physician within 30 days of the issuance of the bill. Any customer who receives a waiver of disconnection under this section must enter into a deferred payment plan with the District and remain in compliance with the plan.

I. Reconnection of Services. If service is discontinued for any reason, reconnection of services will be established within 24 hours of receipt of payment of the past due bill in its entirety and any other outstanding charges, including all reconnection fees.

J. Suspension or Discontinuation of Reclaimed Water Service. The District's right in and to reclaimed water is superior to that of any other reclaimed water user. The District may suspend or discontinue any Reclaimed Water Service Agreement as necessary as reasonably determined by the District.

XIII. Continuity of Service.

A. Service Interruptions.

1. The District will make all reasonable efforts to prevent interruptions of service. When interruptions occur, the District will re-establish service within the shortest possible time.

2. The District will make reasonable provisions to meet emergencies resulting from failure of service, and will establish procedures to be followed in the event of an emergency in order to prevent or mitigate interruption or impairment of service.

3. In the event of a national emergency or local disaster resulting in disruption of service, the District may, in the public interest, interrupt service to other

customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.

B. Record of Interruption. Except for momentary interruptions due to automatic equipment operations, the District's representative will keep a complete record of all interruptions, both emergency and scheduled. This record will show the cause for interruptions, date, time, duration, location, approximate number of customers affected, and, in cases of emergency interruptions, the remedy and steps taken to prevent recurrence.

XIV. Customer Service Agreement; Plumbing Regulations; Customer Service Inspections.

A. Authority. Under the requirements of the Chapter 341, Subchapter C of the Texas Health and Safety Code and 30 Texas Administrative Code § 290.46(i), the District is required to adopt rules to allow for proper enforcement of the requirements of the TCEQ. Further, Title 30 Texas Administrative Code §290.46(j) requires the District to adopt rules providing for the conduct and certification of customer service inspections.

B. Purpose. The purpose of this Article is to notify each customer of the plumbing restrictions and inspections that are in place to protect the drinking water supply from contamination or pollution that could result from improper plumbing practices. Each customer must agree to comply with this Article as a condition to receiving services from the District.

C. Plumbing Restrictions. The following undesirable plumbing practices are prohibited:

1. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination must be isolated from the public water system by an air-gap or an appropriate backflow prevention device.

2. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply must be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.

3. No connection that allows water to be returned to the public drinking water supply is permitted.

4. No pipe or pipe fitting that contains more than 8% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

5. No solder or flux that contains more than .2% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

D. Service Conditions. The following are the terms for the provision of service between the District and each customer of the District:

1. The customer must comply with the provisions of this Order as long as the customer is receiving service from the District.

2. The customer must allow his property to be inspected for possible cross-connections and other undesirable plumbing practices as required by this Order. These inspections may be conducted by a representative of the District prior to initiating service and periodically thereafter. All inspections will be conducted during the District's normal business hours.

3. The District will notify a customer in writing of any cross-connection or other undesirable plumbing practice that has been identified during the initial inspection or the periodic re-inspection.

4. The customer must immediately correct any undesirable plumbing practice on his premises.

5. The customer must, at its expense, properly install, test, and maintain any backflow prevention device required by the District. Copies of all testing and maintenance records must be provided to the District.

E. Customer Service Inspections.

1. Inspections Required. The applicant for service or the customer must submit a completed customer service inspection certification to the District in the following instances:

a. before the District begins providing continuous and adequate service to new construction;

b. when the District has reason to believe that cross-connections or other unacceptable plumbing practices exist on any existing service; or

c. after any material improvement, correction or addition to any existing private plumbing facilities.

2. Certifications. The certification must be completed in the form attached as **Exhibit "B"**. A customer service inspection certification must be completed at the applicant's or customer's expense by:

a. a plumbing inspector and water supply protection specialist licensed by the Texas State Board of Plumbing Examiners and in good standing at the time of the inspection;

b. a certified waterworks operator who has completed a training course, has passed an examination administered by the TCEQ or its designated agent, and holds an endorsement granted by the TCEQ or its designated agent; or

c. a licensed plumber, if the inspection and certification are for a single-family residential service.

3. Records. The District will maintain copies of completed customer service certifications for a minimum of ten years.

4. Unacceptable Plumbing Practices. If unacceptable plumbing practices are discovered, they must be promptly corrected by the customer or applicant for service to prevent contamination of the water supplied by the District. The existence of an unacceptable plumbing practice is sufficient grounds for immediate termination of service without notice in order to protect the health and safety of all District customers. Service will not be restored until the potential source of contamination has been eliminated or additional safeguards have been taken and a new customer service inspection certification is provided to the District.

F. Enforcement. If a customer fails to comply with the terms of this Article, the District may assess fines as provided in this Order, and may either terminate service and/or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this Article will be billed to the customer.

XV. Enforcement; Penalties.

A. Enforcement of Rules. Under Section 54.205, Texas Water Code, the provisions of this Order constitute rules that must be recognized by the courts as if they were penal ordinances of a city. This Order may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office is located.

B. Penalties.

1. Service will not be provided by the District until all applicable requirements of this Order have been met.

2. Violation of this Order will result in the offending party being subject to the payment of a fine in an amount per violation that does not exceed the jurisdiction of the justice court, as provided by Section 27.031, Texas Government Code, which penalty will be established by the Board. In addition, the offending party will be liable to the District for all costs incurred by the District in connection with any repairs or corrections necessitated by the violation and, if any violation results in a penalty being assessed against the District by any governmental entity or regulatory authority with jurisdiction, the offending party will be responsible for the full amount of such penalty, together with all costs incurred by the District in connection with the violation and penalty in question. If the District prevails in any suit to enforce the provisions of this Order, the District may additionally recover its reasonable attorneys' fees, expert witness fees and other costs incurred by the District before the court.

XVI. Filing. The Secretary of the Board is hereby directed to file a copy of this Order in the principal office of the District.

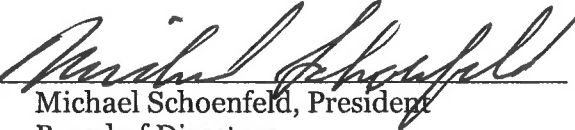
XVII. Exhibits. The following exhibits are attached to and incorporated in this Order by reference:

- Exhibit "A"** – Industrial Waste Regulations
- Exhibit "B"** – Customer Service Inspection Certification
- Exhibit "C"** – Parten Ranch Development


Adopted and effective as of the 21st day of May, 2018.



**HAYS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 5**

By: 
Michael Schoenfeld, President
Board of Directors

ATTEST:



Scott Tomhave, Secretary
Board of Directors

EXHIBIT "A"

INDUSTRIAL WASTE REGULATIONS

[See attached.]

EXHIBIT "A"

**HAYS COUNTY MUNICIPAL UTILITY DISTRICT NO. 5
REGULATIONS FOR DISCHARGE OF INDUSTRIAL WASTE**

TABLE OF CONTENTS

Article I. Regulations for Discharge of Industrial Waste

Section:

- 1.01 Declaration of policy; purposes; interpretation; applicability; rulemaking
- 1.02 Definitions
- 1.03 Prohibited discharges and limitations
- 1.04 Pretreatment requirements and procedures
- 1.05 Special procedures relating to prohibited waste
- 1.06 Monitoring for surcharge and removal credit determinations
- 1.07 Confidential information
- 1.08 Appeal procedures
- 1.09 Other sections applicable
- 1.10 Compliance no exemption from state provisions
- 1.11 Interlocal agreements for multi jurisdictional implementation and enforcement

Article II. Enforcement Procedures.

Section:

- 2.01 Enforcement Procedures.

**ARTICLE I: REGULATIONS FOR DISCHARGE OF INDUSTRIAL
WASTE.**

**§ 1.01 DECLARATION OF POLICY; PURPOSES; INTERPRETATION;
APPLICABILITY.**

(A) **Policy.** It is the District's policy to promote the public health, safety, and welfare by:

(1) Implementing the General Pretreatment Regulations for New and Existing Sources of Pollution promulgated by EPA and set forth in Title 40, Code of Federal Regulations, Part 403, as amended;

(2) Establishing uniform regulations governing the disposal of wastewater containing industrial waste or other prohibited waste to the District's wastewater collection system, treatment and disposal systems (the "POTW");

(3) Establishing requirements to control pollutants that pass through or cause interference with treatment processes in the POTW or which may contaminate sewage sludge; and

(4) Ensuring the District's compliance with the NPDES permit issued to the District by the TCEQ.

(B) **Purposes.** This Order will be construed at all times so as to achieve the following objectives:

(1) To implement safe and environmentally sound methods for disposal of wastewater containing industrial waste or other prohibited waste to the POTW;

(2) To prevent the introduction of pollutants into the District's wastewater collection system and the POTW in concentrations or amounts that will damage or otherwise interfere with the operation of the POTW;

(3) To prevent the introduction of pollutants that will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(4) To ensure that the quality of wastewater treatment plant sludge is maintained at a level that allows its use and disposal in compliance with applicable laws and regulations and maximize opportunities to reclaim wastewater and sludge from the POTW;

(5) To protect District and POTW personnel who may be affected by pollutants in wastewater and sludge in the course of their employment and to protect the general public;

(6) To implement appropriate fees for equitable distribution of the cost of operation, maintenance, and improvement of the POTW;

(7) To enable the District to comply with its NPDES permit conditions, sludge use and disposal requirements and other federal or state laws to which the POTW is subject;

(8) To prevent damage or interference with the operation and maintenance of the POTW.

(C) **Interpretation.** This Order will be liberally interpreted to achieve the policy and purposes stated above.

(D) **Applicability.** This Order will apply to the disposal of wastewater containing industrial waste or other prohibited waste by, through and into the POTW.

§ 1.02 DEFINITIONS.

(A) Unless a provision explicitly states otherwise, the following terms used in this Order will have the meaning ascribed to them below:

ACT or **THE ACT** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

APPROVAL AUTHORITY means the Regional Administrator of the United States Environmental Protection Agency.

APPROVED METHODS means the approved methods for pollutant sampling and analysis described in the latest revision of Title 40, Code of Federal Regulations, Part 136. If Title 40, Code of Federal Regulations, Part 136 does not contain sampling or analytical techniques for a particular pollutant, sampling and analysis for such pollutant must be performed in accordance with procedures approved by the United States Environmental Protection Agency.

AUTHORIZED REPRESENTATIVE means the person authorized to act on behalf of a person discharging wastewater to the POTW or their authorized designee; more particularly,:

- (1) In the case of a corporation, the president, vice president, secretary, manager or other corporate officer authorized to act on behalf of the corporation;
- (2) In the case of a partnership, a general partner;
- (3) In the case of a sole proprietorship, the proprietor thereof;
- (4) In the case of a federal, state or local government facility, the director or highest official appointed or designated to oversee the operations of the facility; or
- (5) The authorized designee of a person described above.

BIOCHEMICAL OXYGEN DEMAND or **BOD** means the quantity of oxygen utilized in the biochemical oxidation of organic matter as determined by standard laboratory procedures for five days at 20° C. expressed as a concentration in milligrams per liter (mg/l).

CATEGORICAL PRETREATMENT STANDARD or **CATEGORICAL STANDARD** means any regulation containing pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act which apply to a specific category of persons discharging industrial waste to the POTW or sanitary sewer and which appear in Title 40, Code of Federal Regulations, Chapter I, Subchapter N, Parts 405-471.

CHEMICAL OXYGEN DEMAND or **COD** means the measure of the oxygen equivalent of the organic matter content of a sample that is susceptible to oxidation by a strong chemical oxidant as determined by standard laboratory procedures as specified in Standard Methods expressed as milligrams per liter (mg/l).

COMMINUTED GARBAGE means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in sanitary sewers, with no particle greater than one-half inch in any dimension.

COMPOSITE SAMPLE means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

COOLING WATER means the water discharged from any system of condensation, such as air conditioning, cooling, and refrigeration systems.

DAILY AVERAGE LIMIT means a discharge limit based on the average of the analysis results of all samples taken from an industrial waste source over the course of the operating day.

DAY means one 24-hour calendar day unless otherwise specified.

DISTRICT means the Hays County Municipal Utility District No. 5.

DRAINAGE WATER means storm water; surface water; roof run-off water; drainage from downspouts; water from yard drains; water from fountains and ponds; water from lawn sprays, rainwater leaders, and areaways; overflows from cisterns and water tanks; swimming pool water; and swimming pool filter backwash water.

ENVIRONMENTAL PROTECTION AGENCY or **EPA** means the United States Environmental Protection Agency.

EXISTING SOURCE means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

EXTRA STRENGTH WASTEWATER means wastewater having a suspended solids (SS), chemical oxygen demand (COD), or biochemical oxygen demand (BOD) content in excess of that found in normal waste but which is otherwise acceptable for discharge to the POTW in accordance with the requirements of this Order.

GARBAGE means solid waste from domestic or commercial preparation, cooking, dispensing or manufacturing of food or from the handling, storage and sale of produce.

GENERAL MANAGER means the General Manager of the District or his authorized representative.

GRAB SAMPLE means a single sample taken from a waste stream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

GROUND WATER means subsurface and subsoil water; artesian well water; water from groundwater remediation sites; and subsurface leachates captured from municipal landfills.

HOLD-HAUL TANK means a storage tank installed to hold industrial waste that is prohibited from being discharged to the POTW, the contents of which must be hauled to a disposal site. A hold-haul tank shall not be connected to the sanitary sewer.

INDIRECT DISCHARGE means the introduction of pollutants into the POTW via the District's wastewater collection system from any nondomestic source regulated under Section 307 (b), (c), or (d) of the Act.

INDUSTRIAL WASTE means any amount of liquid waste and waterborne liquid, gaseous and solid substances discharged or disposed of from any industrial, manufacturing, trade or commercial establishment including nonprofit organizations, governmental agencies or business activities. Such term shall not include sewage discharged from sanitary conveniences on the premises unless such sewage is commingled with wastewater containing industrial waste or other prohibited waste.

INTERFERENCE means a discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the POTW, its treatment processes or operations or the processing, use or disposal of sludge; and therefore is a cause of a the District's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with the terms of any of the following statutory provisions, or regulations or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Act, the federal Solid Waste Disposal Act, including, without limitation, Title II thereof commonly referred to as the Resource Conservation and Recovery Act ("RCRA"), any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

MEDICAL WASTES means isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

MONTHLY AVERAGE LIMIT means a discharge limit based on the average of the analysis results of all samples taken during a calendar month using approved methods for both sampling and analysis.

MUNICIPAL USER means a political subdivision or municipal corporation that discharges wastewater to the POTW.

NEW SOURCE shall mean:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of the proposed pretreatment standards under Section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered;

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subdivision (2)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment;

(3) Construction of a new source as defined herein has commenced if the owner or operator has:

(a) Begun or caused to begin as part of a continuous onsite construction program any placement, assembly or installation of facilities or equipment;

(b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(c) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

NONCONTACT COOLING WATER means water used for cooling that does not come into contact with any raw material, intermediate product, waste product, or finished product.

NORMAL WASTEWATER means waste which, when analyzed, indicates that:

(1) The concentration of BOD in the waste will not exceed 200 milligrams per liter (mg/l) average over any 24 hour period or will not contribute BOD at a rate which would exceed 1,668 pounds of BOD per million gallons of wastewater per day;

(2) The concentration of suspended solids (SS) in the waste will not exceed 200 milligrams per liter (mg/l) average over any 24 hour period or will not contribute suspended solids at a rate which would exceed 1,668 pounds of suspended solids per million gallons of wastewater per day; or

(3) The concentration of COD in the waste will not exceed 450 milligrams per liter (mg/l) average over any 24 hour period or will not contribute COD at a rate that would exceed 3,735 pounds of COD per million gallons of wastewater per day.

OTHER WASTE means solid or viscous substances such as, but not limited to, ashes, cinders, sand, concrete, mud, straw, shavings, metal, glass, rags, feathers, tar, asphalt, plastics, rubber, rubber products, wood, whole non-human blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, carbide wastes, slops, chemical residues, paint residues, asbestos, bulk solids, grass clippings, or tree trimmings.

OWNER OR OCCUPANT means the person who owns real property or pays or is legally responsible for payment of water and/or wastewater charges made against a plot, parcel of land, building, office or other real property or premises, if connected to the water distribution system and/or the wastewater collection system maintained by the District, or who should pay or be legally responsible for such payment if so connected.

PASS THROUGH means a discharge that exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the District's NPDES permit including an increase in the magnitude or duration of a violation.

PERSON means any individual, business entity, partnership, firm, company, sole proprietorship, corporation, association, trust, estate, governmental agency, political subdivision, or other legal entity or person or their legal representatives, agents, assigns or delegees.

pH means a measure of the acidity or alkalinity of a solution expressed in standard units.

POLLUTANT means a substance that alters the physical, thermal, chemical, radiological or biological quality or properties of water or that contaminates water to the extent that the water is rendered harmful to humans, animal life, vegetation or property or to the public health, safety or welfare or that impairs the usefulness or public enjoyment of the water for any lawful purpose including, but not limited to, dredged soil, solid waste, incinerator residue, swimming pool filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, appliances or manufactured goods, rock, sand, dirt, municipal, agricultural and industrial waste and certain characteristics of wastewater (e.g., pH, temperature, suspended solids, turbidity, color, BOD, COD, toxicity or odor).

POLLUTION means alteration of the physical, thermal, chemical, radiological, or biological quality of, or contamination of any water to the extent that the water is rendered harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to the public health, safety or welfare, or that impairs the usefulness of the water for any lawful or reasonable purpose.

PRETREATMENT means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of the properties of pollutants in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be

obtained by physical, chemical, or biological processes, by process changes, or by other means except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENTS means any substantive or procedural requirement related to pretreatment imposed on a person discharging wastewater to the POTW other than a pretreatment standard.

PRETREATMENT STANDARDS means prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS or **PROHIBITED DISCHARGES** means those prohibitions against the discharge of certain substances contained in this Order.

PROHIBITED WASTE means any waste prohibited from discharge to the the POTW except in accordance with the provisions of this Order.

PUBLICLY OWNED TREATMENT WORKS or **POTW** means the “treatment works”, as defined by Section 212 of the Act, that is owned or leased by the District. This definition includes, without limitation, any and all wastewater treatment plants, pipelines, facilities, equipment, devices, or systems used, alone or in combination, for the collection, conveyance, storage, transportation, treatment, re-cycling, disposal, or reclamation of wastewater, sewage or industrial waste.

SANITARY CONVENIENCE means any plumbing fixture (except for a food waste disposal unit) not required to have a sand and/or grease trap (interceptor) according to provisions of the Uniform Plumbing Code.

SANITARY SEWER means a pipe or conduit owned, controlled, or subject to the jurisdiction of the District, designed to collect and transport wastewater.

SEPTIC TANK WASTE means sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEWAGE means human excreta and gray water.

SEWER SYSTEM means all of the property involved in the operation of a sanitary sewer utility. It includes land, wastewater lines and appurtenances, pumping stations, treatment works, wastewater treatment plants, and general property.

SIGNIFICANT INDUSTRIAL USER or **SIU** means for purposes of this Order:

- (1) A person subject to categorical pretreatment standards; or
- (2) A person that either:

(a) Discharges an average of 25,000 gallons per day or more of process water to the POTW (excluding sewage from sanitary conveniences, noncontact cooling water and boiler blowdown wastewater);

(b) Contributes a process wastestream that makes up five per cent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the operation of the POTW or sanitary sewer or for violating any pretreatment standard or requirement;

(3) Provided, however, that upon a finding that a person meeting the criteria in subdivision (2) above has no reasonable potential for adversely affecting the operation of the POTW or for violating any pretreatment standard or requirement, the District may at any time, on its own initiative or in response to a petition received from such person, and in accordance with the procedures in Title 40, Code of Federal Regulations, Section 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SLUG LOAD or **SLUG** means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards established in this Order.

STANDARD INDUSTRIAL CLASSIFICATION means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORM SEWER means any sewer owned, controlled, or subject to the jurisdiction of the District designed to carry storm and surface water, street wash and drainage water.

STORM WATER means any flow occurring during or following any form of natural precipitation and resulting from such precipitation including snowmelt.

SURCHARGE means the additional sewerage service charge levied against any person for discharging extra strength wastewater into a sanitary sewer. This charge is intended to defray the added cost to the District of sampling, testing, transporting and treating extra strength wastewater. This charge shall be in addition to the usual monthly charge for wastewater service.

SUSPENDED SOLIDS or **SS** means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid which is removable by laboratory filtering expressed in milligrams per liter.

TO DISCHARGE means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, suffer, permit or suffer any of these acts or omissions.

TREATMENT PLANT UPSET means an inhibition, impairment, or disruption of a wastewater treatment plant, its treatment processes or operations, or its sludge processing, use or disposal which is a cause of or significantly contributes to:

(1) A violation of any requirement of the treatment plant's NPDES permit (including an increase in the magnitude or duration of a violation);

(2) The prevention of sewage sludge use or disposal by the treatment plant in accordance with all applicable federal and state laws and regulations and this Order;

(3) A decrease in the quality of the effluent being discharged from the treatment plant; or

(4) A decrease in the performance of the treatment plant processes or operations.

USER or **INDUSTRIAL USER** means a source of indirect discharge.

WASTE means one or more pollutants.

WASTEWATER means all liquids and waterborne waste, drainage water and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged to the POTW.

WASTEWATER DISCHARGE PERMIT means a permit issued by the General Manager authorizing the discharge of wastewater to the POTW in accordance with the terms and conditions of said wastewater discharge permit and this Order.

WASTEWATER TREATMENT PLANT means any arrangement of devices or structures used for treating wastewater; that portion of the POTW designed to provide treatment of wastewater.

WATERCOURSE means any natural or artificial channel for the passage of water.

(B) The meaning of all terms used in this Order that are not defined above shall be as defined in Title 40, Code of Federal Regulations.

§ 1.03 PROHIBITED DISCHARGES AND LIMITATIONS.

(A) **General prohibitions.** Except as otherwise provided in this Order, no person shall discharge or cause, suffer or permit to be discharged to the District's wastewater collection system any pollutants that:

(1) Cause a treatment plant upset in the POTW;

(2) Cause pass through or otherwise cause or contribute to pollution of any watercourse;

(3) Cause interference with the operation of the District's wastewater collection system or the POTW;

(4) Cause the POTW to be in violation of its National Pollutant Discharge Elimination System (NPDES) Permit;

(5) Cause damage to the POTW or any portion of the wastewater collection system of the District ;

(6) Cause a hazard to life or property;

(7) Cause ambient air quality of the District's wastewater collection system or the POTW to exceed standards established by federal, state or local law;

(8) Violate any term or condition of a wastewater discharge permit issued by the District under this Order;

(9) Cause or constitute a public nuisance or imminent endangerment to the public health, safety or welfare;

(10) Cause the presence of pollutants in the POTW or in treatment plant sludge in excess of the limits established for same in applicable federal, state and local rules and guidelines.

The foregoing general prohibitions shall apply to all persons discharging to the District's wastewater collection system whether or not such person is subject to categorical treatment standards or any other national, state or local pretreatment standards or requirements.

(B) ***Specific prohibitions.*** In addition to the general prohibitions set out above, no person shall discharge, or cause, suffer, or permit to be discharged to the District's wastewater collection system or the POTW any of the following pollutants:

(1) Other waste, as defined in this Order;

(2) Flammable or explosive liquids, solids, or gases, and similar substances that may create a fire or explosive hazard in the collection system or the POTW including, without limitation, pollutants with a closed cup flashpoint of less than 140° F. (60° C.) utilizing the test methods specified in 40 C.F.R. § 261.21, as amended;

(3) Pollutants regulated pursuant to any categorical pretreatment standard promulgated by EPA in a concentration or amount in excess of the limit specified in such standard;

(4) Any wastewater having a temperature of 120° F. (48.9° C.) or higher, or at a temperature that will inhibit biological activity in the POTW resulting in interference or increase the temperature of the influent to the treatment plant to 104° F. (40° C.) or higher;

(5) Garbage other than comminuted garbage;

(6) Noxious or malodorous liquids, gases, solids, or other substances in wastewater which, either singly or by interaction with other materials, are sufficient to create a public nuisance or hazard to life or prevent entry into sewers for maintenance or repair;

(7) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW or the District's collection system in a quantity or concentration capable of causing danger to life, health or safety;

(8) Any fats, oils, greases or similar materials in excess of a daily average limit of 200 milligrams per liter (mg/l) using approved methods for fats, oils and greases;

(9) Substances having a pH value lower than 6.0 or higher than 11.5, or any acid, alkali or other substance that damages, by corrosion or otherwise, any part of the POTW or the District's collection system;

(10) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(11) Any waste trucked or hauled from its point of origin that contains a pollutant prohibited by this Order unless otherwise specifically approved by the General Manager based upon criteria and procedures set out in this Order;

(12) Any material removed from a pretreatment facility or private sewage facility except at discharge points designated by the General Manager;

(13) Any of the following pollutants in solution or suspension in concentrations exceeding the following prescribed limits:

Pollutant	Monthly Average Limits in mg/l
Arsenic, Total (T)	0.2
Cadmium (T)	0.5
Chromium (T)	2.5
Copper (T)	1.9
Cyanide (T)	1.0
Fluoride (T)	65
Lead (T)	0.4
Manganese (T)	6.1
Mercury (T)	0.002
Nickel (T)	1.6
Silver (T)	1.0
Total Toxic Organics*	2.0
Zinc (T)	2.3

* The Total Toxic Organics (TTO) limit applies to the sum of the concentrations of toxic organics listed in Table II of Appendix D, Title 40, Code of Federal Regulations, Part 122.

(14) Phenols or other substances in such concentrations as to produce odor or taste in the waters receiving wastewater treatment plant effluent where such receiving waters are used as drinking water;

(15) Wastewater containing radioactive materials in concentrations greater than allowable under current regulations of the Texas Department of Health or other agency of competent jurisdiction;

(16) Solids or viscous pollutants in quantities or concentrations capable of causing obstruction to the flow in the POTW or any portion of the collection system thereby resulting in interference;

(17) Any pollutant including, without limitation, oxygen demanding pollutants (BOD and the like) discharged to the District's wastewater collection system or the POTW at a flow rate and/or pollutant concentration capable of causing interference or which are otherwise not amenable to treatment;

(18) Any pollutant that imparts color that cannot be removed by the treatment process including, without limitation, dye water, vegetable tanning solutions or whole blood, which consequently imparts color to the treatment plant effluent;

(19) Medical wastes except in accordance with the terms and conditions of a wastewater discharge permit issued under this Order;

(20) Any sludges, screenings or other residues from the pretreatment of industrial waste or other prohibited waste unless otherwise specifically authorized by the General Manager in accordance with the criteria and the procedures set forth in this Order;

(21) Any pollutants in wastewater that, alone or in conjunction with other sources of wastewater, cause the POTW effluent to fail a toxicity test;

(22) Wastes containing detergents, surface active agents, or other substances that may cause excessive foaming in the District's wastewater collection system or the POTW effluent;

(23) Wastewater causing a single reading over ten per cent of the Lower Explosive Limit (LEL) of an explosion hazard meter;

(24) Antifreeze or coolant solutions used in vehicles or motorized equipment;

(25) A discharge at a flow rate or quantity that exceeds the carrying capacity of that part of the collection system through which it flows;

(26) Drainage water; and

(27) Drainage water or ground water that has become contaminated by one or more pollutants prohibited by this Order unless all of the following conditions are met:

(a) An assessment has been made by the General Manager of the characteristics, volume and concentrations of the pollutants involved; and

(b) A determination has been made by the General Manager that discharge to the POTW is an appropriate disposal method; and

(c) A determination has been made by the General Manager that discharge of the pollutant(s) in question will not cause harm to the POTW or to employees or other persons or property; and

(d) Pretreatment of the polluted water by the discharger to the discharge standards required in this Order for the pollutant(s) in question; and

(e) Application by the person proposing the discharge for a Wastewater Discharge Permit from the General Manager conforming in all respects to the requirements of this Order; and

(f) Issuance of a Wastewater Discharge Permit by the General Manager in accordance with the provisions of this Order setting forth the conditions to which the proposed discharge is subject.

(C) **Affirmative defenses.** Pursuant to Title 40, Code of Federal Regulations, Section 403.5(a)(2), a person discharging wastewater containing prohibited waste to the District's POTW shall have the following affirmative defenses to the general prohibitions and specific prohibitions set forth above:

(1) **Upset.** An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the following requirements are met:

(a) **Upset defined.** For purposes of this subdivision, the term "upset" shall mean an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the person discharging wastewater to the POTW provided, however, that the term shall not include noncompliance with the general and specific prohibitions set forth above to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance or careless or improper operation.

(b) **Demonstration of upset.** A person desiring to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

1. An upset occurred and the person can identify the cause(s) of the upset;
2. The facility was at the time of the upset being operated in a prudent and workmanlike manner and in compliance with applicable and generally accepted operation and maintenance procedures; and
3. The person verbally reported the following information to the District Manager within 24 hours of becoming aware of the upset and followed such verbal report with a complete written report of same within five days:
 - a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance;

(c) **Burden of proof regarding defense.** In any enforcement proceeding, the person seeking to establish the affirmative defense of upset shall have the burden of proof.

(d) **Applicability of defense.** The affirmative defense of upset shall be available only in an enforcement action brought for noncompliance with categorical pretreatment standards and shall not apply in any other context.

(e) **Control of discharge pending resolution of upset.** A person whose pretreatment system is affected by upset shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. (By way of example and not of limitation, this requirement shall apply in situations where the primary source of power of the treatment facility is reduced, lost, or fails).

(2) **Compliance with prohibited discharge standards.** A person discharging wastewater containing prohibited waste to the POTW shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions or specific prohibitions set forth above if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the person was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists but the discharge did not change substantially in nature or constituents from the person's prior discharge when the District was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge disposal requirements.

(3) **Bypass.** A person discharging wastewater containing prohibited waste to the POTW may cause, suffer or permit to occur a bypass meeting the conditions set forth in this subdivision and such bypass shall not constitute a violation of the general or specific prohibitions set forth above.

(a) **Bypass defined.** The term "bypass" shall mean the intentional diversion of untreated or partially treated wastestreams from any portion of the wastewater treatment system of a person discharging wastewater containing prohibited waste to the POTW.

(b) **Conditions for allowable maintenance related bypass.** A person discharging wastewater containing prohibited waste to the POTW may allow bypass to occur which does not cause pretreatment standards or requirements to be violated but only if such bypass is for

essential maintenance to assure efficient operation; such a bypass is not subject to the further conditions and limitations of this subdivision set forth below;

(c) **Prior notice of anticipated bypass.** If the person knows in advance of the need for a bypass, the person shall submit notice of same to the General Manager at least ten days prior to the date of the anticipated bypass, if possible;

(d) **Notice regarding unanticipated bypass.** The person shall submit verbal notice to the General Manager of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written report of the bypass shall be made within 48 hours which shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The General Manager may waive the requirement of a written report on a case-by-case basis if a complete verbal report has been received within 24 hours;

(e) **General prohibition of bypass; exceptions.** Bypass is prohibited and the General Manager may take enforcement action against a person causing or allowing a bypass unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; as used herein, the term "severe property damage" shall mean substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not include economic loss caused by production delays;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The person submits the notices required under subdivision (c) and (d) above.

(D) **Dilution.** No person shall ever increase the use of process water, or in any way dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment requirement or standard.

(E) **Improper processing or storage.** No person shall process or store prohibited waste in such manner as to cause, suffer, permit or result in a discharge of such prohibited waste to the POTW.

§ 1.04 PRETREATMENT REQUIREMENTS AND PROCEDURES.

(A) **Pretreatment required.** Any person generating wastewater containing waste prohibited from discharge to the POTW who desires to discharge the same must pretreat or otherwise dispose of the prohibited waste so as to make the wastewater actually discharged conform in all respects to the discharge standards, limits, requirements and conditions established in this Order.

(B) **Pretreatment facilities required.** Any person discharging wastewater containing prohibited waste to the POTW, whether directly or indirectly, must install, operate, and maintain, at its sole expense, all necessary wastewater treatment facilities specified by this Order to treat such prohibited wastes so that the effluent discharged by such person will comply at all times with applicable categorical pretreatment standards, local limits, and all other rules, standards and limitations set forth in this Order.

(C) **General pretreatment requirements.** All pretreatment facilities must comply with the following general requirements:

(1) **Permit required.** No person shall commence a discharge of wastewater containing prohibited waste from a pretreatment facility to the POTW without first having secured a wastewater discharge permit from the General Manager in accordance with the provisions of this Order.

(2) **Discharge to comply with permit.** The discharge from a pretreatment facility must comply at all times with the terms, conditions and limitations set forth in the wastewater discharge permit issued by the General Manager in accordance with the provisions of this Order.

(3) **Approval of plans, pretreatment processes.** Any person desiring to discharge wastewater containing prohibited waste to the POTW, and who is required by this Order to pretreat such waste prior to such discharge, must submit to the General Manager for review and approval, prior to such discharge or the commencement of construction of pretreatment facilities or the utilization or modification of any pretreatment facility, method, process or technology, complete plans and specifications for the pretreatment system and a description of the proposed pretreatment method, process or technology to be utilized, including, without limitation, any products, chemicals, agents or devices to be utilized for pretreatment provided, however, that the approval of such plans and specifications by the General Manager shall not relieve such person of the continuing obligation to install, operate, maintain and, if necessary, modify the pretreatment system so that the discharge is in compliance at all times with the requirements of this Order, and applicable federal, state and local law.

(4) **Inspection and approval of pretreatment facilities.** No person may commence any discharge of wastewater to the POTW from or through a pretreatment facility unless and until the pretreatment facility has been inspected and approved by the General Manager.

(5) **Testing of pretreatment facilities and products.** The General Manager may test or require testing of pretreatment facilities, agents, products or devices prior to any discharge to the POTW from or through the pretreatment facility.

(6) **Installation requirements.** Pretreatment facilities shall be of a design, size and construction approved by the District Manager. In addition, the pretreatment facilities shall be installed and connected in a manner approved by the District Manager.

(7) **Additional pretreatment conditions authorized.** In order to protect the POTW, the General Manager is hereby authorized to require any person discharging to District's collection system to comply with any or all of the following conditions by inclusion of same in the wastewater discharge permit issued under this Order:

(a) **Wastestream controls.** In addition to compliance with other standards, requirements and procedures in this Order, the General Manager may require any person discharging to the POTW to:

1. Restrict or equalize the rate of flow of the discharge;
2. Designate that certain wastewater be discharged only into specific sewers;
3. Relocate and/or consolidate points of discharge;
4. Separate domestic sewage wastestreams from industrial wastestreams; and
5. Implement such other and further wastestream control, flow control or other conditions and limitations on the wastestream as the General Manager shall deem reasonable and necessary to protect the POTW, to determine the compliance of the person discharging with this Order or other applicable law, or otherwise to implement the purposes and intent of this Order;

(b) **Flammable gas detection.** The General Manager is authorized to require any person discharging wastewater with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter;

(c) **Accidental discharge/slug control plans.** Every person discharging wastewater containing industrial waste or other prohibited waste to the POTW shall provide protection from the accidental discharge of prohibited waste. Prior to the connection of wastewater service, the General Manager may require a person proposing to discharge wastewater to the District's wastewater collection system to develop and implement an accidental discharge/slug control plan. At least every two years, the General Manager shall evaluate whether each of the significant industrial users discharging wastewater to the District's wastewater collection system needs to prepare such a plan. Each such plan will include, at a minimum, the following:

1. A description of discharge practices including non-routine batch discharges;
2. A description of stored chemicals;
3. Procedures for immediately notifying the General Manager of any accidental or slug discharge in violation of any prohibition contained in this Order, any wastewater discharge permit issued hereunder, or any other pretreatment requirement or standard;

4. Procedures to prevent adverse impact from any accidental or slug discharge which may include, without limitation:

- a. Inspection and maintenance of storage areas;
- b. Handling and transfer of materials;
- c. Loading and unloading operations;
- d. Control of plant site runoff;
- e. Worker training;
- f. Construction of containment structures or equipment;
- g. Measures for containing toxic organic pollutants;
- h. Measures and equipment for emergency response;
- i. Measures for detecting a spill; and
- j. Such other and further procedures or requirements as the General Manager shall deem necessary to protect the POTW from accidental discharges and/or slug loads;

(8) **Mass limitations.** The General Manager may impose mass limitations on pollutant discharges where, in the judgment of the General Manager, limitation of the mass of pollutants discharged is necessary for protection of the POTW and/or to prevent the dilution of pollutants to meet the pollutant concentration limits specified in this Order.

(9) **Dilution prohibited.** Unless expressly authorized by an applicable pretreatment standard or requirement, no person shall increase the use of process water or in any other manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation or pretreatment standard specified in this Order.

(10) **Permit standards generally.** The General Manager is hereby authorized to establish in wastewater discharge permits issued under this Order more stringent pretreatment standards, requirements, and conditions than those set forth in this Order or in Title 40, Code of Federal Regulations, Part 403, where the General Manager determines that such standards, requirements or conditions are necessary to protect the the POTW, or to implement the general purposes and intent of this Order.

(11) **Use of enzymes, agents or devices.** Use of enzymes, chemicals or other agents or devices for the purpose of causing oil, grease and/or solids to pass through the pretreatment facility is prohibited.

(12) **Wastes and residues removed from pretreatment facilities.** Storage, handling and transportation of wastes and residues removed from pretreatment facilities shall be

performed in accordance with all federal, state and local laws, ordinances and regulations applicable to the type or class of waste removed from the pretreatment facility.

(D) **Industry specific pretreatment requirements, exemptions.** The following additional pretreatment requirements and exemptions shall apply to the specific activities and industries described below:

(1) **Commercial food preparation.** Any person engaged in commercial food preparation including, without limitation, food processors, bakeries, restaurants, schools, hospitals, retirement homes, grocery stores or other commercial food preparation operations shall construct, operate, and maintain a pretreatment system in accordance with the requirements of this Order.

(2) **Vehicle wash facilities.** Any person engaging in the commercial washing of motorized vehicles, whether utilizing automated equipment or handwashing, discharging or proposing to discharge to the District's wastewater collection system shall discharge through a pretreatment facility of a design, size and construction approved by the General Manager. The vehicle wash area shall be protected so that rain water does not enter the sanitary sewer.

(3) **Minor vehicle maintenance areas.** Areas where minor vehicle repairs such as engine tuneup, air conditioning repair, electrical repair, front end alignments, exhaust system replacement and repair, suspension system replacement and repair and brake system repair are performed may discharge floor wash water to the District's wastewater collection system through a pretreatment facility of a design, size and construction approved by the General Manager.

(4) **Major vehicle maintenance areas and fluid change areas.** Areas where major vehicle repairs such as engine dismantling, transmission repairs, hydraulic system repairs, differential repair and/or rebuilding of any of the above parts or fluid changing are performed shall not have a floor drain or other device where wastewater may discharge to the District's wastewater collection system unless a pretreatment system or process is provided that consistently produces an effluent that is in compliance with the standards established in this Order. If a pretreatment system or process meeting the requirements of this Order is not provided, all drainage from such areas shall discharge into a hold-haul tank of a design, size and construction approved by the General Manager and the contents thereof shall be disposed of according to applicable law. If a pretreatment system or process meeting the foregoing requirements is not provided, such major vehicle maintenance and fluid change areas shall be physically separated from any area that drains to the District's wastewater collection system.

(5) **Steam cleaning and chemical cleaning facilities.** Drainage from steam cleaning and/or chemical cleaning facilities shall not be discharged to the sanitary sewer unless a pretreatment facility or process is provided that consistently produces an effluent in compliance with this Order.

(6) **Pretreatment system maintenance documentation.** Any person with a pretreatment system shall make the most recent waste hauler's manifest available for inspection upon request by the General Manager or District industrial waste inspector.

(E) **National pretreatment standards.** The categorical pretreatment standards in Title 40, Code of Federal Regulations, Chapter I, Subchapter N, Parts 405-471 are hereby incorporated and shall apply to categorical users as follows:

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the General Manager may impose equivalent concentration or mass limits in accordance with Title 40, Code of Federal Regulations, Section 403.6(c);

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the General Manager shall impose an alternate limit using the combined wastestream formula set out in Title 40, Code of Federal Regulations, Section 403.6 (e);

(3) A person subject to a categorical pretreatment standard may obtain a variance from such categorical standard if the person can prove, pursuant to the procedural and substantive provisions in Title 40, Code of Federal Regulations, Section 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A person subject to a categorical pretreatment standard may obtain a net gross adjustment to a categorical standard in accordance with Title 40, Code of Federal Regulations, Section 403.15 only after consultation and agreement regarding the adjustment between the General Manager.

§ 1.05 SPECIAL PROCEDURES RELATING TO PROHIBITED WASTE.

The following special procedures are hereby established and shall apply to any person discharging prohibited waste to the District's wastewater collection system:

(A) ***Wastewater discharge permits.*** The following requirements and procedures shall apply to any person discharging or proposing to discharge prohibited waste to the District's wastewater collection system:

(1) ***Wastewater discharge permit required.*** It shall be unlawful for any person to deposit or discharge prohibited waste to the POTW without first having made application and obtained a wastewater discharge permit and complied with all applicable provisions of this Order.

(2) ***Form of application.*** Each application for a wastewater discharge permit hereunder shall be made in writing and filed with the General Manager.

(3) ***Information requirements.*** An application for a wastewater discharge permit under this Section shall include, at a minimum, the following information:

(a) Name, title, address, and telephone number of the applicant;

(b) Description of the activities, facilities, and processes conducted on the premises for which a wastewater discharge permit is sought;

(c) The nature and characteristics of the proposed discharge;

(d) A complete list of all raw materials and chemicals used or stored at the facility sought to be permitted which are or could, either accidentally or intentionally, be discharged to the POTW;

(e) Each product produced by type, amount, process and rate of production;

(f) Type and amount of raw materials processed, including the daily average and daily maximum;

(g) A copy of the site plans, floor plans, mechanical and plumbing plans with sufficient detail to show all sewers, floor drains, pretreatment facilities and appurtenances by size, location and elevation and all points of origin;

(h) Time and duration of the discharge; and

(i) Such other and further information deemed necessary by the General Manager to evaluate the wastewater discharge permit application, to determine whether the facilities of the applicant and proposed discharge will be in compliance with this Order, or otherwise to fulfill the purposes and intent of this Order.

(4) ***Certification of signatory.*** All applications for a wastewater discharge permit hereunder shall contain the following certification and be signed by a duly authorized representative of the applicant:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of legal action, fine and rejection of this application.”

(5) ***Identity of applicant.*** An application for issuance of a wastewater discharge permit shall be filed by the owner, occupant, or manager of premises for which a wastewater discharge permit is sought, and in whose name water service from the District is established. If the owner, occupant, or manager is a business entity other than a natural person (that is, corporation, partnership, association, etc.), the application shall be made in the name of such entity.

(6) ***Identity of signatory.*** If an application for issuance of a wastewater discharge permit under this Order is made by a natural person, such person shall sign the application. If an application for issuance of a wastewater discharge permit is made on behalf of a legal entity

other than a natural person, the application shall be made in the name of such entity and shall be signed by a principal, authorized corporate officer, ranking elected official or other duly authorized representative of the applicant entity.

(7) **Application fees.** An application for a wastewater discharge permit or an application for transfer of an existing wastewater discharge permit shall be accompanied by the nonrefundable application and permit fee established from time to time by the District Board of Directors.

(8) **Transfer of existing permit.** At least 90 days before a transfer of ownership, occupancy or management of premises currently permitted under this Order, such new owner, occupant or manager shall apply for transfer of such wastewater discharge permit to such new owner, occupant or manager and approval thereof by the General Manager shall be subject to the following conditions:

(a) The new owner, occupant, or manager shall submit a written application for transfer thereof on a form provided for this purpose by the General Manager satisfying all information requirements for new applications for wastewater discharge permits hereunder;

(b) Such application for transfer must indicate no material change in equipment, facilities or processes on the permitted premises;

(c) Such application for transfer must indicate no material change in the character, quantity, rate of flow or other characteristics of the industrial waste discharge;

(d) The discharge from the permitted premises must be in compliance with the requirements of this Order at the time of such transfer.

(9) **Multiple use buildings.** For multiple use buildings (such as shopping centers, medical service buildings, and the like) having one water meter issued to the same person, one permit shall be issued to the person in whose name the water bill is issued provided the application conforms to the requirements and procedures set forth in this Order. The quality and volume of the discharge from a multiple use building shall be monitored by the District and the applicant shall be responsible for the discharge and be billed accordingly.

(B) **Exemptions to permit requirement.** Without prejudice to the application of any other requirement of this Order, the following premises shall be exempt from the permit requirement set forth in division (A) above:

- (1) Single family residences;
- (2) Residential duplexes;
- (3) Other users discharging only sewage;
- (4) Funeral parlors.

(C) **Issuance, denial and revocation of permits; procedures and conditions.** The General Manager is hereby authorized to issue wastewater discharge permits in accordance with the standards, procedures and conditions set forth below:

(1) **Approval standards.** The General Manager shall approve the issuance of a wastewater discharge permit or an application for transfer or renewal thereof only after the General Manager determines that:

- (a) The application is complete and accurate and meets all requirements of this Order;
- (b) Installation, inspection and approval by the General Manager of all facilities required under this Order has been completed; and
- (c) The proposed discharge will comply in all respects with the requirements of this Order.

(2) **Denial of application.** The General Manager may disapprove an application for a wastewater discharge permit or for transfer or renewal thereof that is false, incomplete, inaccurate, filed by a person or in a manner other than that prescribed in this Order or which otherwise fails to comply with the requirements and procedures of this Order.

(3) **Required permit conditions for significant industrial users.** For significant industrial users and other industrial users designated as such by the General Manager under the standards set forth in Title 40, Code of Federal Regulations, Section 403.3(4), as amended, a wastewater discharge permit issued under this Order shall include, at a minimum, the following terms, conditions and limitations:

(a) A statement identifying the permittee, the premises from which the permitted discharge will be emitted, and the nature, characteristics, conditions and limitations applicable to the permitted discharge;

(b) A statement describing the duration of the wastewater discharge permit which shall in no event exceed one year;

(c) A statement that the wastewater discharge permit is nontransferable without prior notification and approval of the District Manager and a requirement for furnishing the new owner, operator or manager of the permitted premises with a copy of the permit;

(d) Effluent limitations applicable to the permittee based on applicable standards set forth in federal, state and local law and this Order;

(e) Pretreatment, self-monitoring, sampling, reporting, notification and recordkeeping requirements applicable to the applicant which shall include an identification of pollutants to be monitored, sampling location(s), sampling frequency, and sample type based on federal, state and local law;

(f) A statement of applicable civil, criminal, and administrative penalties for violation of applicable pretreatment standards, other requirements hereof and any applicable

compliance schedule provided that such schedule may not extend the time for compliance beyond that required by applicable federal or state law or this Order.

(4) ***Additional permit conditions authorized for significant industrial users.*** Where the General Manager determines the same to be necessary to protect the POTW or further the purposes of this Order, wastewater discharge permits issued to significant industrial users may contain, without limitation, the following additional conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(b) Limits on the instantaneous daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

(c) Requirements for the installation of pretreatment and monitoring technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW or the District's collection system;

(d) Requirements for development and implementation of spill control plans including management practices necessary to adequately prevent accidental, unanticipated or routine discharges;

(e) Requirements for development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(f) A statement of the unit charge or schedule of charges and fees for the management and treatment of wastewater discharged to the POTW;

(g) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(h) A statement that compliance with the wastewater discharge permit and/or this Order does not relieve the permittee of responsibility for compliance with all applicable federal, state and local pretreatment standards including those which become effective during the term of the permit;

(i) A statement that the wastewater discharge permit is subject to modification for good cause as determined by the General Manager in accordance with this Order;

(j) A statement that the permitted facilities, pretreatment and equipment and any source of wastewater or prohibited waste and all records pertinent thereto shall be subject to inspection by the General Manager or his authorized representative at any time upon presentation of his credentials in accordance with this Order.

(5) ***Required permit conditions for other industrial users.*** For other industrial users not classified as significant industrial users under this Order, a wastewater discharge permit issued under this Order shall contain, at a minimum, the terms and conditions set forth in

subdivisions (C)(3)(a), (b), (c), and (f) above. A wastewater discharge permit issued under this subdivision may include those conditions listed in subdivisions (C)(3) and (4) above where the General Manager shall determine the inclusion of same to be necessary for the protection of the POTW or the District's collection system or the proper implementation of this Order.

(6) ***Authorization to establish additional permit conditions.*** Any wastewater discharge permit issued under this Order may include such additional or more stringent conditions deemed by the General Manager to be necessary to:

- (a) Prevent pass through or interference;
- (b) Protect the water quality of the waters receiving the treatment plant effluent;
- (c) Protect the health and safety of employees and the public;
- (d) Facilitate proper sludge management and disposal;
- (e) Protect against damage to the POTW or sanitary sewer;
- (f) Provide for self-monitoring, reporting and recordkeeping by persons discharging wastewater containing industrial waste or other prohibited waste to the POTW via the District's wastewater collection system;
- (g) Provide for access by the General Manager to permitted facilities to inspect, sample, and conduct enforcement activities under this Order;
- (h) Minimize the expense of the wastewater treatment processes;
- (i) Ensure compliance with applicable NPDES permits;
- (j) Protect ambient air quality;
- (k) Otherwise to implement fully the purpose and intent of this Order and all federal pretreatment standards and regulations.

(8) ***Modification of permit.*** The General Manager is hereby authorized to modify, upon application by the holder or on his own motion, a wastewater discharge permit issued under this Order for good cause which shall include, without limitation, the following:

- (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements including amendments to this Order;
- (b) To address significant alterations or additions to the permittee's operation, processes or wastewater volumes or character of discharge since the time of issuance or last amendment of the permit;

(c) Any change in the District's wastewater collection system or the POTW that requires either a temporary or permanent reduction or elimination of the discharge previously authorized;

(d) Information indicating that the permitted discharge poses a threat to the POTW, District's wastewater collection system, receiving waters, treatment plant or field personnel or the public;

(e) Violations of any terms or conditions of the permit that, in the judgment of the General Manager, require modification of the permit to correct, abate or prevent a recurrence thereof;

(f) Misrepresentation or failure to disclose fully all relevant facts in the wastewater discharge permit application or in any required report;

(g) Revision of or the grant of a variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical, clerical or other ministerial errors in the permit;

(i) To reflect a transfer of the premises for which the permit was obtained to a new owner, occupant or manager.

(9) ***Voiding previous permits.*** The General Manager is authorized to void and terminate a wastewater discharge permit previously issued for the following reasons:

(a) Abandonment of the permitted premises;

(b) Vacancy or other nonuse of the permitted facilities for a consecutive period of 90 days or more;

(c) Cessation of operations for which a wastewater discharge permit is required under this Order;

(d) Transfer of the permitted operations to a new owner, occupant or manager;

(e) Issuance of a new or modified permit under this Order.

(10) ***Revocation of permit.*** The General Manager is hereby authorized to revoke a wastewater discharge permit issued under this Order for any one or more of the following reasons:

(a) Misrepresentation or failure to disclose all relevant facts in the wastewater discharge permit application;

(b) Violation of the provisions of this Order, any pretreatment standard or requirement or the terms of any wastewater discharge permit issued hereunder;

- (c) Failure to notify the General Manager of significant changes to the character or volumes of wastewater discharged prior to the changed discharge;
- (d) Filing false, misleading, incomplete or inaccurate self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusal to allow the General Manager or his authorized representative(s) access to the permitted premises or facilities or to records or reports appertaining thereto as required by this Order;
- (g) Failure to comply with applicable effluent limitations established under this Order;
- (h) Failure to pay applicable wastewater charges, surcharges for treatment and handling of extra strength wastes, or fines, penalties or other charges established under this Order;
- (i) Failure to comply with compliance orders or schedules established by the General Manager hereunder;
- (j) Failure to complete a wastewater survey if required by the General Manager hereunder;
- (k) Failure to provide advance notice of the transfer of permitted facilities as required hereunder;
- (l) Failure to comply with applicable administrative rules or orders established by the General Manager to implement the purposes and intent of this Order.

The initiation of proceedings for revocation of a permit shall not prevent the General Manager from initiating other proceedings for civil and/or criminal enforcement of this Order.

(11) ***Proceedings for revocation.*** The General Manager may revoke a wastewater discharge permit in accordance with the following procedure:

- (a) The General Manager shall issue to the permittee an order to show cause setting forth the time and place for the revocation hearing in accordance with the procedures in this Order for issuance of orders to show cause;
- (b) The General Manager shall conduct an informal hearing at which time the General Manager will inform the permittee of the grounds for the proposed revocation and allow the permittee the opportunity to respond to same;
- (c) The informal hearing conducted under this part is not required to be conducted in accordance with formal rules of evidence and the General Manager may establish rules for the conduct of such hearings;

(d) The General Manager shall forward written notice to the permittee of a decision to revoke a wastewater discharge permit hereunder together with a statement of the permittee's right to appeal such decision;

(e) The failure of the permittee to appear at the time and place indicated for the revocation hearing shall not prevent the General Manager from proceeding to revoke a permit hereunder.

(D) Required structures.

(1) **Authority to require installations.** The General Manager is hereby authorized to require any person discharging or proposing to discharge wastewater containing prohibited waste to the District's wastewater collection system (and therefore to the POTW) to install, operate and maintain in safe and proper operating order, at the sole expense of such person, pretreatment, sampling, monitoring, flow equalization, flow metering or other equipment of a size, type, character and specification as the General Manager shall determine appropriate for the discharge, operations, and facilities of such person.

(2) **Sampling port and control manhole.** Any person discharging wastewater containing prohibited waste to the POTW via the District's wastewater collection system or proposing such discharge shall install, operate and maintain, at the sole expense of the person discharging or proposing such discharge, a suitable sampling port or control manhole in accordance with the following requirements:

(a) The sampling port or control manhole shall be located at a place approved by the General Manager at or near the property line;

(b) The sampling port or control manhole shall intersect the common building drain line connected to the District's wastewater collection system;

(c) If the property has more than one drain line connected to the District's wastewater collection system, a sampling port or control manhole must be constructed on each drain line;

(d) Plans for such sampling port and/or manhole shall be submitted to the General Manager for review and approval prior to commencement of construction thereof;

(e) Such sampling port and/or manhole shall be maintained at all times in a safe and proper operating condition in accordance with the manufacturer's specifications; and

(f) Such sampling port and/or manhole shall be accessible at all times to the General Manager for inspection, sampling, monitoring of flows and any other purposes relating to the implementation and enforcement of this Order.

(3) **Flow equalization tanks.** In order to prevent pass through, interference, overloading of the collection system, treatment plant upset, inadequate treatment, or damage to the District's wastewater collection system or the POTW, the General Manager may require a flow equalization tank of a design, size and construction approved by the General Manager.

(4) **Operation and maintenance.** The person discharging wastewater containing prohibited waste shall operate and maintain all required pretreatment, sampling, monitoring, flow equalization or flow metering equipment required under this Order at their sole expense in accordance with the manufacturer's specifications and the requirements of this Order.

(5) **Monitoring installations by regulatory agencies.** As a condition for connection and discharge to the POTW, the District, the State and EPA shall have the right to install and maintain on premises emitting a discharge of wastewater containing industrial waste or other prohibited waste such equipment, devices and personnel as are deemed necessary to conduct sampling, metering or other monitoring of such person's facilities, operations, or discharge.

(6) **Special monitoring and recording devices for pretreatment facilities.** The General Manager is hereby authorized to require any person required by this Order to use pretreatment facilities prior to discharging to the POTW via the District's wastewater collection system to install such monitoring and recording devices as the General Manager shall determine necessary to monitor the following parameters:

- (a) pH;
- (b) Dissolved oxygen (DO);
- (c) Total carbon (TC);
- (d) Oxidation reduction potential (ORP);
- (e) Temperature;
- (f) Conductivity;
- (g) Specific ions;
- (h) Flow;
- (i) Total organic carbon (TOC);
- (j) Lower explosive limit (LEL);
- (k) Sulfides;

(l) Such other and further parameters as the General Manager shall determine necessary to monitor such discharge of prohibited waste to the POTW via the District's wastewater collection system.

(E) **Measurement of flow.** The volume of wastewater discharged to the POTW via the District's wastewater collection system shall be determined using one of the following processes as approved by the General Manager:

- (1) The actual metered flow of water measured through the District's water meter; or

(2) The wastewater average which is the average of the actual metered flow of water through the District's water meter for the December, January and February billing periods; or

(3) A wastewater flow meter of a design, size and construction approved by the General Manager, and installed by the customer at the customer's expense in each of the customer's house laterals in a manner and at a location approved by the General Manager.

(4) Notwithstanding the foregoing, the General Manager shall have authority to require the measurement of flow at each wastewater tap of the person discharging wastewater to the POTW via the District's wastewater system.

(F) ***Determination of character and concentration of pollutants.*** The wastewater discharged or deposited to the POTW via the District's wastewater system by persons classified as significant industrial users shall be subject to inspection and sampling on at least an annual basis and more frequently if the General Manager determines that more frequent inspections and sampling are necessary to protect the POTW or the District's wastewater collection system. The wastewater discharged or deposited to the POTW by persons not classified as significant industrial users shall be subject to periodic inspection and sampling as often as may be deemed necessary by the General Manager. Samples shall be collected in such manner as to be representative of the character and concentration of the wastewater under operational conditions. The laboratory methods used in the examination of the samples shall be those set forth in the approved methods. The sampling schedule or program for determining the character and concentration of wastewater shall be determined by the General Manager. Should the person discharging wastewater containing prohibited waste to the POTW desire that a determination of the quality of such wastewater be made at some time other than that scheduled by the General Manager, such special determination may be made by the General Manager at the expense of such person.

(G) Self-monitoring and reporting requirements.

(1) ***Persons subject to categorical pretreatment standards.*** Persons engaged in industries that have national pretreatment requirements promulgated by EPA shall follow the self-monitoring and reporting requirements published in the Federal Register. To the extent permitted by the terms of a wastewater discharge permit issued under this Order, persons engaged in any other industry that discharges wastes to the POTW via the District's wastewater collection system that is regulated by this Order may, at the option of the General Manager, take periodic samples, analyze the samples for the presence and/or quantity of pollutants listed in this Order and report the results to the General Manager. The frequency and methods of sampling and analysis shall be consistent with the approved methods described in this Order. Self-monitoring and reporting shall not replace nor supersede sampling and testing by the District. In the event of a conflict, the District's sampling and analysis shall control for all purposes under this Order.

(2) ***Baseline monitoring reports required from existing categorical users.*** Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR § 403.6(a)(4), whichever is later, existing categorical users currently discharging or scheduled to discharge to the POTW via

the District's wastewater collection system, shall be required to submit to the General Manager a report which contains the information listed in this section.

(3) **Baseline monitoring reports required from new source categorical users.** At least 90 days prior to commencement of their discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the General Manager a report which contains the information required in this section together with a report concerning the method of pretreatment it intends to use to meet applicable pretreatment standards.

(4) **Required information.** Existing or new source categorical users described in this section are required to submit the following information:

(a) **Identifying information.** The name and address of the facility including the name of the owner, operator, or manager of the facility.

(b) **Environmental permits.** A list of all environmental control permits held by or for the facility.

(c) **Description of operations.** A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) conducted by such industrial user including, without limitation, a schematic process diagram which indicates points of discharge to the District's wastewater collection system from the regulated processes.

(d) **Flow data.** Information showing the measured average daily and maximum daily flow in gallons per day from regulated process streams and other wastestreams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR §403.6(e).

(e) **Measurement of pollutants.** Each categorical user described in this section shall also:

1. Identify the categorical pretreatment standards applicable to each regulated process; and

2. Submit the results of a sampling and analysis representative of daily operations performed in accordance with approved techniques set out in 40 CFR Part 136 identifying the nature and concentration (and/or mass, where required by the standard) of regulated pollutants in the discharge from each regulated process including without limitation instantaneous, daily maximum, and long term average or mass where required by the General Manager.

(f) **Certification.** A statement reviewed by the industrial user's authorized representative signed and certified by a qualified professional in accordance with 40 C.F.R. §403.6(a)(2) indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(g) **Compliance schedule.** If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards; the shortest schedule by which

the industrial user will provide such additional pretreatment and/or operations and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set by the General Manager for the achievement of compliance.

(h) ***Compliance schedule progress report.*** The compliance schedule described above shall include progress increments or benchmarks in the form of dates for commencement and completion of major events leading to construction and operation of additional pretreatment facilities required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary and final plans, executing contracts, commencement and completion of major component construction, testing commencement of operation, etc.) provided, however, that no increment mentioned above shall exceed nine months with such progress reports to be provided no later than 14 days following each date in the schedule and the date of final compliance and including a statement as to whether each progress increment was complied with, the reason for delay, if any, and steps taken to return to the established schedule.

(i) ***Report on compliance with categorical pretreatment standard deadline.*** Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW via the District's wastewater collection system, any industrial user subject to such pretreatment standards or requirements shall submit to the General Manager a report signed and certified in accordance with the requirements of this Order by the authorized representative of the industrial user containing the information required under subdivision (c) above. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CRF §403.6(c), such report shall contain a reasonable determination of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial user's actual production (or other measure of operation).

(5) Periodic reports required from significant industrial users and other users.

(a) Any significant industrial user subject to a pretreatment standard shall submit to the General Manager, at a frequency determined by the General Manager, but in no case less than twice per calendar year, a written report, signed and certified by the authorized representative of such user indicating the nature and concentration of pollutants in the discharge that are limited by such pretreatment standards, the measured or estimated averaged and maximum daily flows for the reporting period and such other and further information as the General Manager shall require.

(b) The General Manager shall have authority to require all other persons generating waste that is discharged, deposited or otherwise received for treatment at the POTW to provide to the General Manager appropriate reports concerning the nature and concentration of pollutants in the discharge, the origin of the waste, and such other and further information as the General Manager shall deem necessary to identify and process such waste, to protect the POTW or otherwise to implement the purposes and intent of this Order.

(6) **Representative samples required.** All wastewater samples reflected in periodic reports filed with the General Manager hereunder shall be representative of a person's discharge. Toward this end, wastewater monitoring and flow measurement facilities shall be properly operated and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for a person to claim that sample results are not representative of its discharge.

(7) **Reports of additional samples taken.** If a person subject to the reporting requirements in this section monitors any pollutant more frequently than required by the General Manager using the approved methods described herein, the results of this monitoring shall be included in the periodic reports to the General Manager required hereunder.

(8) **Report of changed conditions.** Any person discharging wastewater to the POTW is required to notify the General Manager of any planned significant changes to its operations or wastewater treatment system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change is implemented or in accordance with the terms of its wastewater discharge permit or the following standards and procedures, whichever are more stringent:

(a) **Information required.** The General Manager may require that any person discharging wastewater to the POTW via the District's wastewater system to submit such information as the General Manager deems reasonably necessary to evaluate a changed condition in the operations or wastewater treatment system of such person including, without limitation, the submission of a wastewater discharge permit application under this Order.

(b) **Action on changed conditions.** Based on the change proposed, the General Manager may issue a wastewater discharge permit or modify an existing wastewater discharge permit under this Order.

(c) **Prerequisite to implementation of significant change.** No person shall implement a planned significant change until the General Manager has responded to the industrial user's notice required under this section.

(d) **Significant change defined.** For the purpose of this section, flow increases of ten percent or greater and/or the discharge of any previously unreported pollutants shall be deemed a significant change.

(9) **Immediate report of problem discharge.** In the case of any problem discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load that may cause potential problems for the District's wastewater collection system or the POTW, including any violation of the prohibited discharge standards established under this Order, the person discharging same shall notify the General Manager immediately by telephone in accordance with the following requirements and procedures:

(a) **Information required.** The notification to the General Manager required under this section shall include, at a minimum, the location of the discharge, type of waste,

concentration and volume, if known, treatability of waste, toxic effects to humans, if any, and corrective actions taken by the person responsible for such discharge.

(b) ***Followup written report required.*** Within five days following the occurrence of such discharge, the person responsible for such discharge shall, unless waived by the General Manager in writing, submit a detailed written report describing the nature and causes of the discharge and the measures to be taken by the person to prevent similar future occurrences, provided, however, that such notification shall not relieve such person of any loss, expense, damage or other liability which may be incurred as a result of damage to the POTW or the District's wastewater collection system, natural resources, or any other damage to persons or property; nor shall such notification relieve the person of any fines, civil penalties, or other liability imposed by this Order or other applicable law.

(c) ***Consequences of failure to notify.*** Each failure to notify of a potential problem discharge hereunder shall constitute a separate violation of this Order.

(d) ***Instruction of notice procedures.*** Each person discharging wastewater containing prohibited waste shall instruct all employees who either may suffer or cause a problem discharge to occur or be responsible for reporting same of the obligation and proper procedures for notification of a problem discharge hereunder and shall permanently post written notice of such procedures on a bulletin board or other prominent place.

(10) ***Further reports required.*** All persons discharging wastewater containing prohibited waste to the POTW via the District's wastewater collection system shall provide such further reports and information to the General Manager as the General Manager, shall deem necessary to monitor and evaluate the particular discharge of such person as determined on a case by case basis.

(11) ***Self reporting of violations.*** If sampling performed by a person discharging wastewater containing prohibited waste to the POTW indicates a violation of this Order, such person must notify the General Manager within 24 hours of becoming aware of the violation.

(12) ***Repeat sampling required.*** A person discharging wastewater containing prohibited waste in violation of this Order shall repeat such sampling and analysis and submit the results of the repeat analysis to the General Manager within 30 calendar days after becoming aware of the violation provided, however, such person is not required to resample if the District performs monitoring at the person's site at least once per month or if the District performs sampling between the person's initial sampling and when such person receives the results of this sampling.

(13) ***Sampling and analytical requirements.*** All sampling techniques and pollutant analyses used for compilation of data required to be submitted as part of a wastewater discharge permit application or report required under this Order shall be performed in accordance with the techniques prescribed in Title 40, Code of Federal Regulations, Part 136 unless otherwise specified in an applicable categorical pretreatment standard.

(14) **Non-standard analyses.** If Title 40, Code of Federal Regulations, Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(15) **Required sample collection techniques.** Except as otherwise set forth herein, a person discharging wastewater containing industrial waste or other prohibited waste must collect wastewater samplings using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible in the judgment of the General Manager, the General Manager may authorize the use of time proportional sampling or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(16) **Grab sampling requirements.** Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(17) **Determination of non-compliance.** The General Manager may utilize grab samples to determine noncompliance with pretreatment standards.

(18) **Postmark date for mailed reports.** Written reports mailed postage prepaid via the U.S. Postal Service will be deemed to have been submitted on the date postmarked.

(19) **Unmailed submittals.** For reports not mailed via the U.S. Postal Service, the date of receipt of the report shall be deemed the date of submittal.

(H) **Hazardous waste notification required.** Any person who commences the discharge of hazardous waste shall notify the General Manager, the Director of the EPA Regional Waste Management Division, and state hazardous waste authorities having jurisdiction in writing of any discharge to the POTW via the District's wastewater collection system of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 in accordance with the following standards and procedures:

(1) **Required information.** The notification required under the previous subpart shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number and the type of discharge (continuous, batch or more). If the person discharges more than 100 kilograms of such waste per calendar month to the POTW via the District's wastewater collection system, the notification shall also contain the following information to the extent such information is known and readily available to such person;

(a) An identification of the hazardous constituents contained in the wastes;

(b) An estimation of the mass and concentration of such constituents in the wastestream discharge during that calendar month; and

(c) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(2) **Deadline for notifications.** All notifications required under this section shall be made no later than 180 days after the discharge commences provided, however, that any notification under this section need be made only once for each hazardous waste discharged.

(3) **Pollutants previously reported.** The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements set forth in this Order.

(4) **Quantitative exemption.** Dischargers are exempt from the reporting requirements of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharges of more than 15 kilograms of non-acute hazardous wastes in a calendar month or any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification satisfying the information requirements set forth above. Subsequent months during which the person discharges more than such quantities of any hazardous wastes do not require additional notification.

(5) **New or additional hazardous wastes.** In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the person must notify the General Manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of any such substance within 90 days of the effective date of such regulations.

(6) **Volume reduction plan.** In the case of any notification made under this section, the person shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated.

(I) Retention of records.

(1) **Retention of records.** A person discharging wastewater containing prohibited waste to the POTW via the District's wastewater collection system shall retain and make available for inspection and copying by the General Manager all records and information required to be made, retained or reported under this Order.

(2) **Retention period.** Unless required to be retained for a longer period under federal or state law, records required to be retained hereunder shall be retained for a period of not less than three years from the date of creation thereof.

(3) **Extension of retention period.** The records retention period set forth herein shall be automatically extended for the duration of any litigation concerning compliance with this Order or where the person has been ordered to retain records for a longer period under the enforcement provisions of this Order.

(4) **Failure to retain a violation.** Failure to retain records as required by this section shall constitute a violation of this Order.

§ 1.06 MONITORING FOR SURCHARGE AND REMOVAL CREDIT DETERMINATIONS.

{W0670175.1}

(A) **Payment of surcharge for extra strength wastewater.** In addition to compliance with all other requirements of this Order, any person discharging extra strength wastewater to the POTW via the District's wastewater collection system shall pay a monthly surcharge for the additional costs of handling and treatment of such extra strength wastewater in addition to the usual monthly sewer service charges.

(B) **Cost factors.** The cost factors for extra strength wastewater are based on the capital and operating cost of wastewater facilities to provide treatment for the reduction of excessive BOD, COD and suspended solids.

(C) **Computation of surcharge.** For extra strength wastewater having a COD concentration of 2.25 or more times that of the BOD concentration, the surcharge will be based on the COD category in lieu of the BOD category. Computations of surcharges shall be based on the following formula:

$$S = V \times 8.34 (A [\text{BOD} - 200] + B [\text{SS} - 200])$$

or

$$S = V \times 8.34 C [\text{COD} - 450] + B [\text{SS} - 200]$$

S: Surcharge in dollars that will appear on the customers monthly bills.

V: Wastewater actually billed in millions of gallons during the billing period.

8.34: Pounds per gallon of water.

A: Unit charge in dollars per pound of BOD.

BOD: BOD strength in milligrams per liter (mg/l) by weight.

200: Normal BOD strength in milligrams per liter (mg/l) by weight.

B: Unit charge in dollars per pound for SS.

SS: Suspended solids (SS) concentration in milligrams per liter (mg/l) by weight.

200: Normal SS concentration in milligrams per liter (mg/l) by weight.

C: Unit charge in dollars per pound for COD.

COD: COD strength in milligrams per liter (mg/l) by weight.

450: Normal COD strength in milligrams per liter (mg/l) by weight.

If the strength or concentration for BOD, SS or COD is less than the normal strength for that category, then there shall be no surcharge for that category, nor shall there be credit given for the total surcharge if the strength or concentration is less than the normal.

(C) *Adjustment of rates.* All flow rates, BOD, COD, and SS values used in determination of the surcharge of wastewater customers shall be reevaluated on a periodic basis as determined by the General Manager, and shall be adjusted to reflect any increase or decrease in wastewater treatment costs. However, if there is a major change in the operation to cause changes in value, the values may be increased or decreased based on a study of changes or actual measurements. Every person discharging wastewater to the POTW shall be responsible for notifying the General Manager of major changes in its operation affecting the quantity or quality of extra strength wastewater discharged. In the absence of such notification, the surcharge applicable to such person shall be based on the data available to the General Manager at the time the surcharge is billed.

§ 1.07 CONFIDENTIAL INFORMATION.

Information and data pertaining to an industrial user or other person subject to this Order obtained from reports, surveys, wastewater discharges, permit applications, wastewater discharge permits, monitoring programs, and from inspection, sampling and enforcement activities shall be available to the public in accordance with the laws of the State of Texas subject to the following:

(A) Such information shall be withheld from disclosure if the industrial user or the person subject to this Order makes a specific and timely request in writing and demonstrates to the satisfaction of the General Manager and the District's General Counsel that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law;

(B) When timely requested and demonstrated that such information should be held confidential, the portions of the information that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to the NPDES or pretreatment and monitoring program and in enforcement proceedings involving the person furnishing the information;

(C) Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. § 2.302 will not be recognized as confidential information and will be made available to the public without restriction.

§ 1.08 APPEAL PROCEDURE.

(A) *Right of appeal.* Any person aggrieved by a decision, interpretation or ruling under this Order shall have the right to appeal the same to the General Manager in accordance with the procedure set forth herein.

(B) **Perfection of appeal.** Such appeal shall be perfected by directing written request for same to the General Manager within 30 days of the issuance of such decision, interpretation, or ruling providing therein the following information:

- (1) The name and address of the person making the appeal;
- (2) The facts giving rise to the particular ruling or refusal to make a ruling;
- (3) The ruling or refusal to make a ruling appealed from;
- (4) The reasons why such ruling should be set aside or, if the ruling was refused, the reasons why such ruling should be made.

(C) **Required copies.** The person making the appeal shall forward copies of such appeal to the District's General Counsel concurrent with the filing of same with the General Manager.

(D) **Informal hearing by the General Manager.** Within 30 days of the filing of such appeal with the General Manager, the General Manager shall conduct an informal hearing of the matter on notice to the party appealing and allow such person to appear and present the facts and its position with respect to the decision, ruling or interpretation appealed from. The General Manager shall also consider the facts and position of the District Engineer in relation to the matter appealed from. Such hearing shall be informal rather than adjudicatory and the rules of evidence shall not apply.

(E) **Ruling by General Manager.** The General Manager shall consider the facts and statement of position made by the person appealing and render a written decision thereon within 30 days from the date of the informal hearing.

(F) **Decision of General Manager final.** The decision of the General Manager with regard to the matter appealed from shall be final.

(G) **Procedures for hearing.** The General Manager may establish rules for conduct of the informal hearing provided that such rules shall not require the application of adjudicatory techniques or formal rules of evidence.

(H) **No stay of enforcement actions.** The filing of an appeal shall not stay an enforcement action pending the resolution of the appeal.

(I) **No waivers or variance.** In passing upon the appeal, the General Manager may not waive or grant a variance to any provision of this Order but shall only address the correctness of the decision, interpretation or ruling appealed from and the application thereof to the party appealing.

§ 1.09 COMPLIANCE NO EXEMPTION FROM STATE PROVISIONS.

Compliance with this Order does not supersede or exempt or excuse a person from complying with the provisions of the Texas Water Code or the requirements of any applicable waste discharge permit, order, rule, or regulation issued by the Texas Natural Resource Conservation Commission or its successor agency.

ARTICLE II: ENFORCEMENT PROCEDURES.

§ 2.01 ENFORCEMENT.

(A) **Enforcement authority.** The General Manager of the District and the District's General Counsel, and each of them, are hereby authorized to enforce the provisions of this Order by any one or more of the enforcement mechanisms set forth in this Order.

(B) **Inspection and enforcement a governmental function.** The inspectors, agents or representatives of the District charged with enforcement of this Order shall be deemed to be performing a governmental function for the benefit of the general public and neither the General Manager, the General Counsel nor the individual inspector, agent, or representative of the District engaged in inspection or enforcement activities under this Order shall ever be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function.

(C) **Right of entry.** As a condition of the District providing wastewater service, directly or indirectly, to property, whether within or outside its corporate boundaries, and as a condition for issuance of every wastewater discharge permit under this Order, any authorized officer, employee, agent or contractor of the District may enter, inspect, sample, monitor or conduct enforcement activities with respect to any part of the sewer system servicing such premises, shall have a right to enter without delay to, upon, or through any premises to gain access to a source of industrial waste or other prohibited waste or discharge, and without limitation, may inspect any pretreatment, sampling, or monitoring equipment or method of pretreatment or monitoring or records pertinent thereto, required under this Order, and/or the Industrial Waste Order, ordinance, rules or regulations of any governmental entity with whom the District may have an interlocal agreement for the provision of wholesale wastewater and/or industrial waste services. This right of entry shall extend to public streets, easements, and private property within which any portion of the sewer system servicing such premises may be located.

(D) **Arrangement for access.** The person discharging or proposing to discharge wastewater to the POTW via the District's wastewater collection system shall make all necessary arrangements, at its sole expense, to remove without delay security barriers or other obstacles to access by the General Manager.

(E) **Obstruction of access, unreasonable delays prohibited.** Obstruction or unreasonable delay in allowing access by the General Manager to premises discharging to the POTW shall constitute a violation of this Order and the conditions applicable to receipt of wastewater service from the District.

(F) **Administrative search warrants.** If the General Manager or his designee have been refused access to a building, structure, or property or any pretreatment facilities or other portion of the wastewater system discharging to the POTW and if the General Manager or his designee have demonstrated probable cause to believe that a violation of this Order, a wastewater discharge permit, or other order issued hereunder exists or that there is a need to inspect to verify compliance with this Order or any permit or other District Order, or to protect the overall health, safety, and welfare of the community, then the General Manager or his designee are hereby authorized to make application for issuance of an administrative search and/or seizure warrant describing therein the specific location subject to search and the property or items subject to seizure. Such warrant shall be served and executed by the General Manager at reasonable hours in the company of a uniformed police officer. In the event of an emergency affecting public health and safety, such inspection shall be made without the necessity of a warrant.

(G) **Criminal Enforcement.** To the degree that a violation of this Order constitutes a violation of state law, the General Manager is authorized to file an appropriate affidavit or complaint with the appropriate agency to initiate a criminal investigation of such violation.

(H) **Civil Penalties.** To the degree allowed by the laws of the State of Texas, the General Manager may impose an appropriate civil penalty for violation of this Order up to \$1,000 per day in accordance with the requirements and procedures of state law.

(I) **Remedies cumulative.** All remedies authorized under this Order are cumulative of all others provided by law. Accordingly, the filing of a criminal action shall not preclude the pursuit of a civil or administrative action for violation of this Order nor shall the filing of a civil action preclude the pursuit of any other action or remedy, administrative or criminal.

(J) **Persons responsible.** A person is responsible for a violation of this Order if:

(1) The person commits or assists in the commission of a violation; or

(2) The person is the owner, occupant, or manager of the property or facilities determined to be the source of a discharge of waste made in violation of this Order.

(K) **Tenant responsibility.** Where an owner of property leases or rents the same to any person as tenant or lessee, the owner or tenant or both may be held responsible for noncompliance with the provisions of this Order.

(L) **Expenses, loss or damage.** Any person violating the provisions of this Order shall be liable to the District for all expenses, loss, or damage incurred by the District by reason of such violation.

(M) **Civil actions.** The General Manager is hereby authorized to enforce this Order by civil court actions in accordance with the procedures therefor provided by state or federal law, including, without limitation, actions for injunction, damages, declaratory relief or other remedies that the General Manager shall deem appropriate to pursue.

(N) **Administrative enforcement.** In addition to any other actions or remedies authorized in this Order, the General Manager is hereby authorized to enforce this Order through

the exercise of any one or more of the following administrative actions and, unless otherwise expressly set forth herein, the selection or use of one such action or remedy by the General Manager shall not be construed to limit the authority of the General Manager to pursue any other enforcement action or remedy nor require the pursuit of a particular action or remedy as a condition precedent to the use of any other such action or remedy:

(1) **Notice of violation (NOV).** Whenever the General Manager determines that any person has violated or is violating this Order, the conditions of any wastewater discharge permit or order issued under this Order, or any other pretreatment requirement, the General Manager may, but shall not be required, to serve upon said person a written notice of violation describing the violation and the actions required to correct the same. Such notice of violation shall inform the recipient that, within 14 calendar days of receipt thereof, the person receiving same shall provide to the General Manager an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions for correction of the violation, provided, however that:

(a) Submission of the proposed corrective plan shall in no form or manner relieve the user of criminal or civil liability for violations of this Order whether before or after receipt of the notice of violation; and

(b) Nothing in this subpart shall be construed to limit the authority of the General Manager to pursue any other enforcement action or remedy, including, without limitation, such emergency actions the General Manager determines to be necessary, without first issuing a notice of violation.

(2) **Assurances of voluntary compliance.** The General Manager is hereby authorized to enter into assurances of voluntary compliance, consent orders or similar documents establishing an agreement for voluntary compliance with any person responsible for a violation of this Order. Such documents shall describe the violation determined to exist, the specific actions agreed to be taken by the person to correct the noncompliance and the time period for completion of the corrective actions specified. The assurance of voluntary compliance, consent order or similar document evidencing the intent of the responsible person to ameliorate voluntarily the described violations of this Order shall be signed and dated by the person responsible for compliance and shall be judicially enforceable provided, however, that in the event of noncompliance with an assurance of voluntary compliance, consent order or similar document, the General Manager may pursue any procedure available under this Order or otherwise to enforce compliance. An assurance of voluntary compliance, consent order or similar document shall not include terms limiting or restricting the actions or remedies available for violations of this Order or the terms of such instrument.

(3) **Show cause hearing.** The Order may order any person responsible for a violation of this Order, the conditions of a wastewater discharge permit, or any other pretreatment standard or requirement, to appear before the General Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the person responsible for a violation specifying the time and place for the meeting, the nature of the violation and enforcement action proposed, the reasons for such action, and a request that the person show cause why the proposed enforcement action should not be taken. Notice of the show cause

hearing shall be served in person or by certified mail, return receipt requested, at least three calendar days prior to such hearing. Such notice may be served upon any employee, agent or other authorized representative of the person responsible for the violation. Whether or not the person appears as ordered, immediate enforcement action may be pursued following the noticed hearing date provided, however, a show cause hearing shall not be a prerequisite for taking any other action against such person and provided, further, that the issuance of a show cause notice shall not prevent the General Manager from pursuing emergency actions if the General Manager determines such actions are required to prevent pass through or other damage or interference with the District's wastewater collection system or the POTW.

(4) **Compliance orders.** When the General Manager determines that a person has violated or continues to violate the provisions of this Order or the conditions of a wastewater discharge permit or other order issued hereunder or any other pretreatment standard or requirement, the General Manager may issue an order to the person responsible for the discharge directing that such person cure such noncompliance within the time period and in the manner specified in the compliance order. If such person does not comply within the time specified in the compliance order, the General Manager may discontinue and disconnect water and/or wastewater service to the noncomplying premises unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. The compliance order may also contain such other and further requirements as the General Manager shall deem necessary to protect the District's wastewater collection system or the POTW including, without limitation, additional self-monitoring, reporting and waste management practices designed to minimize the amount of pollutants discharged to the POTW via the District's wastewater collection system. A compliance order issued hereunder may not extend a deadline for compliance established for a federal pretreatment standard or requirement established by federal law or by EPA order, regulation or otherwise. A compliance order issued hereunder likewise shall not release such noncomplying person of liability for any violation including, without limitation, any continuing violation. Issuance of a compliance order hereunder shall not be a prerequisite to taking any other action against such person.

(5) **Cease and desist orders.** When the General Manager determines that a person is violating this Order, the conditions of such person's wastewater discharge permit or other order issued hereunder, or that past violations committed by such person are likely to recur, the General Manager may issue an order directing the person to cease and desist immediately all such violations and directing the person to:

(a) Immediately comply with all requirements of this Order, the conditions of a wastewater discharge permit or other order issued hereunder;

(b) Take such remedial or preventive action as may be needed to address properly a present, continuing or threatened violation including, without limitation, the halting of operations and/or termination of the wastewater discharge to the District's wastewater collection system and the POTW through disconnection or otherwise.

(c) Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the noncomplying person hereunder.

(6) **Emergency suspensions.** Notwithstanding any other provision hereof, if the General Manager determines that an actual or threatened discharge reasonably appears to present an imminent danger to the health, safety, and welfare of persons or property, or presents an imminent danger of pass-through or other threat to the environment, or otherwise threatens to interfere with the operation of the District's wastewater collection system or the POTW, the General Manager, upon verbal or written notice to the person responsible for such discharge, may immediately suspend water and or wastewater service to the discharging premises and initiate emergency measures to halt or prevent such discharge by disconnection from the District's wastewater system or otherwise. Any person notified of the suspension of its discharge shall immediately cease such discharge or eliminate its contribution to the wastestream. If the person responsible for the discharge fails to comply immediately with the emergency suspension order, the General Manager may immediately undertake all necessary measures to prevent or minimize damage to the District's wastewater collection system or the POTW, to the environment, or to persons or property including, without limitation, immediate severance of sewer connection(s). Unless further proceedings for termination of the discharge have been initiated, the General Manager may allow recommencement of the discharge when the responsible person has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed. Permission to recommence the discharge shall not constitute a waiver of the District's right to pursue criminal or civil penalties or other relief hereunder. Prior to recommencement of the suspended discharge, the person responsible for the discharge shall submit for the approval of the General Manager a detailed report describing the causes of the harmful discharge and the measures implemented to prevent the future recurrence of the conditions causing such imminent endangerment. Nothing herein shall be construed to require a hearing prior to an emergency suspension under this part.

(7) **Termination of discharge.** In the event the General Manager determines that a person has violated the provisions of this Order, the conditions of its wastewater discharge permit or other order(s) issued hereunder, the General Manager may:

(a) Order such person to terminate its discharge to the District's wastewater collection system; and

(b) Enforce termination of the discharge by severance of the sewer connection(s).

Except in the case of an emergency affecting public health and safety, termination of discharge and severance of the wastewater connection to the District's wastewater collection system shall be made only after satisfaction of the procedures for a show cause hearing in accordance with the procedures set out above.

(8) **Termination of water supply.** In the event the General Manager determines that a person has violated this Order, the conditions of its wastewater discharge permit, or other order(s) issued hereunder, the General Manager may, in addition to any other remedies available under this Order, issue an order terminating water service to the noncomplying person's premises. Except in the case of emergency, termination of water supply hereunder shall be made only after satisfaction of the procedures for a show cause hearing set forth above.

(9) **Publication of noncompliant users list.** The General Manager shall publish annually in a newspaper of general circulation in the District a list of the industrial users that, during the previous 12 months, the General Manager determined to be in significant noncompliance with applicable pretreatment standards and requirements of this Order. For purposes of this part, "significant noncompliance" shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(b) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) A discharge violation that the General Manager believes has caused, alone or in combination with other discharges, interference or pass-through;

(d) A discharge of pollutants that has caused imminent endangerment to the public or to the environment, or that otherwise has resulted in the District's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or otherwise attaining final compliance;

(f) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation(s) which the General Manager determines has or will adversely affect the operation or implementation of the local pretreatment program.

EXHIBIT "B"

CUSTOMER SERVICE INSPECTION CERTIFICATION

Name of PWS: _____

PWS I.D. #: _____

Location of Service: _____

I, _____, upon inspection of the private plumbing facilities connected to the aforementioned public water supply do hereby certify that, to the best of my knowledge:

	Compliance	Non-Compliance
1. No direct connection between the public water supply and a potential source of contamination exists. Potential sources of contamination are isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state plumbing regulations. Additionally, all pressure relief valves and thermal expansion devices are in compliance with state plumbing codes.	<input type="checkbox"/>	<input type="checkbox"/>
2. No cross-connection between the public drinking water supply and a private water system exists. Where an actual air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a certified backflow prevention device tester.	<input type="checkbox"/>	<input type="checkbox"/>
3. No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply.	<input type="checkbox"/>	<input type="checkbox"/>
4. No pipe or pipe fitting which contains more than 8.0% lead exists in private plumbing facilities installed on or after July 1, 1988.	<input type="checkbox"/>	<input type="checkbox"/>
5. No solder or flux which contains more than 0.2% lead exists in private plumbing facilities installed on or after July 1, 1998.	<input type="checkbox"/>	<input type="checkbox"/>
6. No plumbing fixture is installed which is not in compliance with a state approved plumbing code.	<input type="checkbox"/>	<input type="checkbox"/>

Water service will not be provided or restored to the private plumbing facilities until the above conditions are determined to be in compliance.

I further certify that the following materials were used in the installation of the plumbing facilities:

Service Lines: Lead Copper PVC Other

Solder: Lead Lead Free Solvent Weld Other

I recognize that this document will become a permanent record of the aforementioned Public Water System and that I am legally responsible for the validity of the information I have provided.

Signature of Inspector

Registration Number

Title

Type of Registration

Date

License Expiration Date

EXHIBIT "C"

PARTEN RANCH DEVELOPMENT

In Re: 461.825 Acres
Being all of the residue of a called
476.834 Acre tract
Lamar Moore Survey
Abstract No. 323
Seaborn J. Whitley Survey
Abstract No. 18
Hays County, Texas



All that certain tract or parcel of land situated in Hays County, Texas, being out of the Lamar Moore Survey, Abstract No. 323, Seaborn J. Whitley Survey, Abstract No. 18, being all of Lots 1-17, Block E of the Oakridge Park, Section 1, at Kinnicink recorded in Volume 182, Page 004 of the Deed Records of Hays County, Texas, all of Lots 1-5, Block F, All of Lots 2-6, Block G of Oakridge Park, Section 2 at Kinnicink and Resubdivision of a Portion of Oakridge Park Section 1, at Kinnicink recorded in Volume 189, Page 441 of the Deed Records of Hays County, Texas, all of Lot 4, Block K, and all of Lots 1-3, Block M of the Oakridge Park, Section 3, At Kinnicink recorded in Volume 192, Page 392 of the Deed Records of Hays County, Texas and all of Lots 1-4 of Oakridge Park, Section 4 at Kinnicink recorded in Volume 1, Page 005 of the Plat Records of Hays County, Texas, all of which being contained within all of the residue of a called 476.834 Acre tract (Parcel 1) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Martha J. Parten, Deceased to Bill R. Hall, Trustee of the Martha J. Parten Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 669 of the Official Records of Hays County, Texas and all of the residue of a called 476.834 Acre tract (Parcel 1) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Ben L. Parten, Jr. to Bill R. Hall, Trustee of the B. L. Parten, Jr. Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 683 of the said Official Records of Hays County, Texas and being more particularly described by metes and bounds as follows to wit:

BEGINNING at a found $\frac{1}{2}$ " iron rod on the common line between the said Moore Survey and the James B. Pier Survey, A-362, at an interior ell corner of a called 117.74 Acre tract conveyed to Pulte Homes of Texas, LP in Volume 2684, Page 084, for the common northwest corner of the said 476.834 Acre residue tract and of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said 117.74 Acre tract, a called 38.50 Acre tract (Tract 2) conveyed to Linda A. Flutke in Volume 317, Page 167, the residue of a called 210.23 Acre tract conveyed to Thomas J. Wissemann DBA Wise Enterprises in Volume 1041, Page 376 and Lot 18 of the Whispering Oaks Subdivision - Phase II respectively for the following courses and distances:

N 87°37'59" E - 2882.77 feet to a found $\frac{1}{2}$ " iron rod on the west line of the said 210.32 Acre residue tract, the southeast corner of the said 38.50 Acre tract, for an exterior ell corner of this tract;
S 01°52'51" E - 197.53 feet to a found $\frac{5}{8}$ " iron rod at the southwest corner of the said 210.23 Acre Residue Tract, for an interior ell corner of this tract;
N 87°26'31" E - 1807.17 feet to a found $\frac{3}{4}$ " iron pipe at the northwest corner of a 10.21 Acre tract conveyed to Wayne Hardin, et ux in Volume 300, Page 580, for the common northeast corner of the said 476.834 Acre residue tract and of this tract;

THENCE along the common line between the said 476.834 Acre residue tract, the east line of the said Block E (Lots 17, 16, 15, 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3 and 2 respectively) of the said Oakridge Park Section 1 and the said 10.21 Acre tract and the west Right-of-Way line of a public roadway dedicated by plat of the said Oakridge Park, Section 1, at Kinnicink and the west Right-of-Way line of Kinnicink Loop (County Road), respectively for the following courses and distances:

S 03°01'25" E - 730.94 feet to a set $\frac{5}{8}$ " iron rod at the northeast corner of the said Lot 17, Block E, for an interior ell corner of this tract;
S 03°02'35" E - 2403.51 feet to a found $\frac{3}{4}$ " iron pipe for an exterior ell corner of this tract.
S 02°56'02" E - 650.74 feet to a found $\frac{3}{4}$ " iron pipe at the intersection of the said Kinnicink Loop and a Public Roadway (Not Open) Dedicated by the plat of the said Oakridge Park, Section 1 at Kinnicink, at the common southeast corner of the said Lot 2 and Block E, for the most northerly southeast corner of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said Public Roadway of the said Oakridge Park, Section 1 for the following courses and distances:

N 23°02'02" W - 167.43 feet to a point for an exterior ell corner of this tract;
Along the arc of a curve to the right having a delta angle of 13°35'00", an arc distance of 110.27 feet, a radius of 465.13 feet, and a chord of N 16°14'32" W - 110.01 feet to a point for an exterior ell corner of this tract;
N 09°27'02" W - 167.34 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 34°26'00", an arc distance of 120.38 feet, a radius of 200.30 feet, and a chord of N 26°40'02" W - 118.57 feet to a point for an interior ell corner of this tract;
N 43°53'02" W - 133.87 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 22°48'00", an arc distance of 90.78 feet, a radius of 228.13 feet, and a chord of N 55°17'02" W - 90.18 feet to a point for an interior ell corner of this tract;
N 66°41'02" W - 105.21 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 30°35'04", an arc distance of 163.91 feet, a radius of 307.06 feet, and a chord of N 81°58'02" W - 161.97 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 42°11'07", an arc distance of 185.49 feet, a radius of 251.93 feet, and a chord of S 61°38'31" W - 181.33 feet to a point for an interior ell corner of this tract;
S 40°32'58" W - 73.93 feet to a point for an exterior ell corner of this tract;
Along the arc of a curve to the right having a delta angle of 38°13'59", an arc distance of 130.51 feet, a radius of 195.58 feet, and a chord of S 59°39'58" W - 128.10 feet to a point for an exterior ell corner of this tract;
Along the arc of a curve to the right having a delta angle of 34°06'00", an arc distance of 70.19 feet, a radius of 117.93 feet, and a chord of N 84°10'02" W - 69.16 feet to a point for an exterior ell corner of this tract;
N 67°07'02" W - 83.65 feet to a set 5/8" iron rod for an exterior ell corner of this tract;
S 56°38'36" W - 60.63 feet to a set 5/8" iron rod at the southeast corner of the said Lot 4, Block G, the northeast corner of the said Lot 3, Block G, for an interior ell corner of this tract;
S 14°38'02" E - 444.08 feet to a found 1/2" iron pipe at the southeast corner of the said Lot 2, Block G, the northeast corner of Lot 1, Block G of the said Oakridge Park, Section 1, At Kinnicinnik, for an exterior ell corner of this tract;

THENCE S 75°20'10" W - 225.19 feet along the common line between the said 476.834 Acre residue tract (Lot 2, Block G) and the said Lot 1, Block G to a found 1/2" iron pipe at the southwest corner of the said Lot 2, Block G, northwest corner of the said Lot 1, Block G, for an interior ell corner of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said Lot 1, Block G and the said Lots 1-3, Block K of the said Oakridge Park, Section 3, at Kinnicinnik respectively for the following courses and distances:

S 15°14'29" E - 639.66 feet to a found 1/2" iron pipe for an exterior ell corner of this tract;
S 01°29'41" W - 155.22 feet to a found 3/4" iron pipe at the southwest corner of the said Lot 3, Block K, at the northwest corner of the said Lot 4, Block K, for an interior ell corner of this tract;

THENCE S 85°17'22" E - 215.82 feet along the common line between the said Lot 3, Block K and the said 476.834 Acre tract (Lot 4, Block K) to a found 1/2" iron pipe on the west line of the said Public Roadway, at the southeast corner of the said Lot 3, Block K, the northeast corner of the said Lot 4, Block K, for an exterior ell corner of this tract;

THENCE along the common line between the said Public Roadway and the said Lot 4, Block K, the said 476.834 Acre tract and the said Lots 1-3, Block M of the said Oakridge Park, Section 3, at Kinnicinnik respectively for the following courses and distances:

S 01°42'21" E - 126.85 feet to a set 5/8" iron rod for an exterior ell corner of this tract;
S 32°47'27" W - 50.16 feet to a set 5/8" iron rod for an interior ell corner of this tract;
S 34°39'52" E - 280.08 feet to a point for an interior ell corner of this tract
S 55°04'51" E - 350.21 feet to a found 1" iron pipe for an exterior ell corner of this tract;

S 35°09'04" E - 35.77 feet to a found "X" cut in concrete on the north Right-of-Way line of F.M. Highway No. 1826, at the southeast corner of the said Lot 3, Block M, for the most southerly southeast corner of this tract;

THENCE S 58°11'07" W - 478.47 feet along the common line between the said F.M. Highway 1826 and the said 476.834 Acre residue tract to a set 5/8" iron rod at the southeast corner of a Public Roadway dedicated by Plat of the said Onkrigde Park, Section 4 at Kinnickinnik, for an exterior ell corner of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said Public Roadway for the following courses and distances:

N 42°29'22" W - 309.43 feet to a found 1/2" iron pipe for an interior ell corner of this tract,
S 56°06'32" W - 60.68 feet to a found 1/2" iron pipe for an interior ell corner of this tract.
S 42°29'22" E - 307.20 feet to a set 5/8" iron rod on the said north Right-of-Way line of F.M. Highway 1826, at the southwest corner of the said Public Roadway, for an exterior ell corner of this tract.

THENCE S 68°26'57" W - 187.65 feet continuing along the said common line between F.M. Highway 1826 and the said 476.834 Acre residue tract to a set 5/8" iron rod at the intersection of the east line of the Driftwood Firehouse Subdivision recorded in Volume 11, Page 46 of the said Plat Records of Hays County, Texas conveyed to the Driftwood Volunteer Fire Department in Volume 2192, Page 757 and the said north Right-of-Way line of F.M. Highway No. 1826, for an exterior ell corner of this tract;

THENCE entering the said 476.834 Acre residue tract, along the east, north and west lines of the said Driftwood Firehouse Subdivision respectively for the following courses and distances:

N 08°10'51" W - 225.06 feet to a found 5/8" iron rod for an interior ell corner of this tract,
S 81°53'09" W - 330.28 feet to a found 5/8" iron rod for an interior ell corner of this tract;
S 04°17'06" W - 305.81 feet to a found 8" cedar fence corner post at the intersection of the said west line of the Driftwood Firehouse Subdivision and the said north Right-of-Way line of F.M. Highway 1826, for an exterior ell corner of this tract;

THENCE along the common line between the said 476.834 Acre tract and the said F.M. Highway 1826 for the following courses and distances:

S 81°55'36" W - 7.47 feet to a found 5/8" iron rod for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 21°55'00", an arc distance of 563.22 feet, a radius of 1472.40 feet, and a chord of S 70°58'07" W - 559.79 feet to a set 5/8" iron rod for an interior ell corner of this tract;
S 59°59'47" W - 4.20 feet to a set 5/8" iron rod on the east Right-of-Way line of Green Hills Loop (County Road), for the common most easterly southwest corner of the said 476.834 Acre residue tract and of this tract;

THENCE N 12°49'23" W - 209.45 feet along the west line of the said 476.834 Acre residue tract, crossing the said Green Hills Loop to a set 5/8" iron rod for an exterior ell corner of this tract;

THENCE N 09°21'14" W - 235.00 feet continuing along the said west line of the said 476.834 Acre residue tract, re-crossing the said Green Hills Loop to a set 5/8" iron rod on the fenced north Right-of-Way line of Green hills Loop, for an interior ell corner of this tract;

THENCE N 61°53'23" W - 70.66 feet along the common line between the said 476.834 Acre residue tract and the said Green Hills Loop to a set 5/8" iron rod at the southeast corner of the said 60.3 Acre tract conveyed to Harold Gene Patterson in Volume 261, Page 010, for an exterior ell corner of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said 60.3 Acre tract for the following courses and distances:

N 24°54'08" W - 1527.81 feet to a found 5/8" iron rod for an interior ell corner of this tract;
S 68°47'57" W - 2093.81 feet to a found 3/4" iron pipe at the southeast corner of Fieldstone (Subdivision) as shown in Volume 2, Page 213 of the said Plat Records for the common most westerly southwest corner of the said 476.834 Acre tract and of this tract;

THENCE along the common line between the said 476.834 Acre residue tract and the said Fieldstone for the following courses and distances:

N 38°04'03" E - 256.98 feet to a found 3/4" iron pipe for an interior ell corner of this tract;

N 01°23'42" W - 2425.63 feet to a found 1" iron pipe for an interior ell corner of this tract;

N 69°17'14" W - 313.03 feet to a set 5/8" iron rod on the common line between the said Moore Survey and the Funny D. Darden Survey, A-664, for an exterior ell corner of this tract;

THENCE N 2°09'00" W - 1906.25 feet along the common line between the said Moore Survey and the said Darden and Pier Surveys respectively, the common line between the said 476.834 Acre residue tract and the said Fieldstone and the said 117.74 Acre tract to the **POINT OF BEGINNING** containing within these metes and bounds 461.825 Acres of land of which 0.255 Acres lies within the said Green Hills Loop.

Bearings are based on the Texas State Plane Coordinate System of 1983, Texas Central Zone.

I, Bradley L. Lipscomb, Registered Professional Land Surveyor No. 5952 in the State of Texas, do hereby certify that this survey was performed on the ground under my supervision and that the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 3rd day of July, 2007.

Bradley L. Lipscomb R.P.L.S.



In Re: 6.522 Acres
Being all of a 6.522 Acre tract
Seaborn J. Whatley Survey
Abstract No. 18
Hays County, Texas



All that certain tract or parcel of land situated in Hays County, Texas, being out of the Seaborn J. Whatley Survey, Abstract No. 18, being all of Lots 1, 2 and 3 Block A of Oakridge Park, Section 1, At Kinricinik recorded in Volume 182, Page 604 of the Deed Records of Hays County, Texas, all of which being contained within a 6.522 Acre tract (Parcel 4) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Martha J. Parten, Deceased to Bill R. Hall, Trustee of the Martha J. Parten Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 669 of the Official Records of Hays County, Texas and all of a 6.522 Acre tract (Parcel 4) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Ben L. Parten, Jr. to Bill R. Hall, Trustee of the B. L. Parten, Jr. Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 683 of the said Official Records of Hays County, Texas and being more particularly described by metes and bounds as follows to wit:

BEGINNING at a set $\frac{5}{8}$ " iron rod at the intersection of the south Right-of-Way line of a public roadway dedicated by the said plat and the east Right-of-Way line of Kinricinik Loop (County Road), for the common northwest corner of the said Lot 3, Block A, the said 6.522 Acre tract and of this tract;

THENCE N $87^{\circ} 27' 38''$ E - 278.70 feet along the common line between the said public roadway and the said Lot 3, Block A (the said 6.522 Acre tract) to a set $\frac{5}{8}$ " iron rod on the west line of Lot 3 of the Fox Run Estates, at the southeast corner of the said Public Roadway, for the common northeast corner of the said Lot 3, Block A, the 6.522 Acre tract and of this tract;

THENCE S $02^{\circ} 02' 10''$ E - 499.99 feet along the common line between the said Lots 3, 2 and 1 respectively of the Fox Run Estates and the said Lots 3, 2 and 1 respectively of the said Block A (the said 6.522 Acre tract) to a found $\frac{3}{4}$ " iron pipe on the north Right-of-Way line of F.M. Highway 1826, at the southwest corner of the said Lot 1 of the Fox Run Estates, for the common southeast corner of the said Lot 1, Block A, the 6.522 Acre tract and of this tract,

THENCE S $47^{\circ} 11' 37''$ W - 368.27 feet along the common line between the said F.M. Highway 1826 and the said Lot 1, Block A (the said 6.522 Acre tract) to a point at the most easterly southeast corner of the said Kinricinik Loop, for the common southwest corner of the said Lot 1, Block A, the 6.522 Acre tract and of this tract from which a found $\frac{1}{2}$ " iron rod for reference bears: N $47^{\circ} 11' 37''$ E - 1.64 feet;

THENCE N $02^{\circ} 01' 31''$ W - 1138.04 feet along the common line between the said Lots 1-3, Block A (the said 6.522 Acre tract) respectively and the said Kinricinik Loop to the **POINT OF BEGINNING** containing within these metes and bounds 6.522 Acres of land.

Bearings are based on the Texas State Plane Coordinate System of 1983, Texas Central Zone.

I, Bradley L. Lipscomb, Registered Professional Land Surveyor No. 5952 in the State of Texas, do hereby certify that this survey was performed on the ground under my supervision and that the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 3rd day of July, 2007.

Bradley L. Lipscomb RPLS



In Re: 11.686 Acres
Being all of a 11.686 Acre tract
Lamar Moore Survey
Abstract No. 323
Seaborn J. Whalley Survey
Abstract No. 18
Hays County, Texas



All that certain tract or parcel of land situated in Hays County, Texas, being out of the Lamar Moore Survey, Abstract No. 323, Seaborn J. Whalley Survey, Abstract No. 18, being all of Lots 1-9, Block H of Oakridge Park, Section 2, at Kinnicink and Resubdivision of a Portion of Oakridge Park, Section 1, at Kinnicink recorded in Volume 189, Page 441 of the Deed Records of Hays County, Texas, all of which being contained within an 11.686 Acre tract (Parcel 2) (Undivided 1/2 Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Martha J. Parten, Deceased to Bill R. Hall, Trustee of the Martha J. Parten Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 669 of the Official Records of Hays County, Texas and all of an 11.686 Acre tract (Parcel 2) (Undivided 1/2 Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Ben L. Parten, Jr. to Bill R. Hall, Trustee of the B. L. Parten, Jr. Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 683 of the said Official Records of Hays County, Texas and being more particularly described by metes and bounds as follows to wit:

BEGINNING at a found 3/4" iron pipe at an interior ell corner of a Public Roadway dedicated by the said plat, at the common northwest corner of the said Lot 5, the said Block H, the said 11.686 Acre tract and of this tract;

THENCE along the common line between the said Public Roadway and the said Block H, the said 11.686 Acre tract for the following courses and distances:

S 67°07'02" E - 34.33 feet to a point for an interior ell corner of this tract;

Along the arc of a curve to the left having a delta angle of 34°06'00", an arc distance of 105.90 feet, a radius of 177.93 feet, and a chord of S 84°10'02" E - 104.34 feet to a point for an interior ell corner of this tract;

Along the arc of a curve to the left having a delta angle of 38°13'59", an arc distance of 170.55 feet, a radius of 255.58 feet, and a chord of N 59°39'58" E - 167.40 feet to a point for an interior ell corner of this tract;

N 40°32'58" E - 73.93 feet to a point for an exterior ell corner of this tract;

Along the arc of a curve to the right having a delta angle of 42°11'00", an arc distance of 141.31 feet, a radius of 191.93 feet, and a chord of N 61°38'28" E - 138.14 feet to a point for an exterior ell corner of this tract;

Along the arc of a curve to the right having a delta angle of 30°35'04", an arc distance of 131.88 feet, a radius of 247.06 feet, and a chord of S 81°58'02" E - 130.32 feet to a point for an exterior ell corner of this tract;

S 66°41'02" E - 105.22 feet to a point for an exterior ell corner of this tract;

Along the arc of a curve to the right having a delta angle of 22°48'00", an arc distance of 66.90 feet, a radius of 168.13 feet, and a chord of S 55°17'02" E - 66.46 feet to a point for an exterior ell corner of this tract;

S 43°53'02" E - 133.87 feet to a point for an exterior ell corner of this tract;

Along the arc of a curve to the right having a delta angle of 34°26'00", an arc distance of 84.32 feet, a radius of 140.30 feet, and a chord of S 26°40'02" E - 83.05 feet to a point for an exterior ell corner of this tract;

S 9°27'02" E - 167.34 feet to a point for an interior ell corner of this tract;

Along the arc of a curve to the left having a delta angle of 13°35'00", an arc distance of 124.49 feet, a radius of 525.13 feet, and a chord of S 16°14'32" E - 124.20 feet to a point for an interior ell corner of this tract;

S 23°02'02" E - 331.39 feet to a found 1/2" iron pipe at the intersection of the south Right-of-Way line of the said Public Roadway and the west Right-of-Way line of Kinnicink Loop (County Road), for the common northeast corner of the said Lot 9, Block H, the said 11.686 Acre tract and of this tract;

THENCE S 02°56'02" E - 331.45 feet along the common line between the said Lots 9 and 1 respectively, the said Block H, the said 11.686 Acre tract and the said Kinnicink Loop to a found 1/2" iron pipe at the intersection of the said west Right-of-Way line of Kinnicink Loop and the

north Right-of-Way line of a Public Roadway dedicated by the said plat, for the common southeast corner of the said Lot 1, Block H, the said 11.686 Acre tract and of this tract;

THENCE along the common line between the said Public Roadway and the said Lots 1-4 respectively, the said Block H, the said 11.686 Acre tract for the following courses and distances:

N 46°21'02" W - 250.22 feet to a point for an interior ell corner of this tract;
N 75°09'02" W - 100.36 feet to a point for an exterior ell corner of this tract;
Along the arc of a curve to the right having a delta angle of 62°56'00", an arc distance of 46.55 feet, a radius of 42.38 feet, and a chord of N 43°41'02" W - 44.24 feet to a point for an exterior ell corner of this tract;
N 12°13'02" W - 129.50 feet to a point for an interior ell corner of this tract;
N 24°16'02" W - 188.93 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 26°58'17", an arc distance of 184.20 feet, a radius of 391.30 feet, and a chord of N 37°46'04" W - 182.50 feet to a point for an interior ell corner of this tract;
Along the arc of a curve to the left having a delta angle of 56°18'00", an arc distance of 180.62 feet, a radius of 183.81 feet, and a chord of N 79°23'02" W - 173.44 feet to a point for an interior ell corner of this tract;
S 72°27'58" W - 173.49 feet to a point for an exterior ell corner of this tract;
N 88°23'02" W - 116.10 feet to a found 1/2" iron pipe at the intersection of the said north Right-of-Way line of the said Public Roadway and the east Right-of-Way line of the above said Public Roadway, for the common southwest corner of the said Lot 4, Block H, the said 11.686 Acre tract and of this tract;

THENCE N 14°38'02" W - 361.60 feet along the common line between the said Lots 4 and 5 respectively, the said Block H, the said 11.686 Acre tract and the said Public Roadway to the **POINT OF BEGINNING** containing within these metes and bounds 11.686 Acres of land.

Bearings are based on the Texas State Plane Coordinate System of 1983, Texas Central Zone.

I, Bradley L. Lipscomb, Registered Professional Land Surveyor No. 5952 in the State of Texas, do hereby certify that this survey was performed on the ground under my supervision and that the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 3rd day of July, 2007.

Bradley L. Lipscomb RPLS



In Re: 45.961 Acres
Being all of a 45.961 Acre tract
Lamar Moore Survey
Abstract No. 323
Hays County, Texas



All that certain tract or parcel of land situated in Hays County, Texas, being out of the Lamar Moore Survey, Abstract No. 323, being all of Lots 1 and 2 Block D of Oakridge Park, Section 1, at Kinnicinnik recorded in Volume 182, Page 004 of the Deed Records of Hays County, Texas and being all of Lots 3A, 4A, 4B, 5A, 5B, 6A, 6B, 7, 8, 9, & 10, Block D of Oakridge Park, Section 2, At Kinnicinnik and Resubdivision of a Portion of Oakridge Park, Section 1, at Kinnicinnik recorded in Volume 189, Page 441 of the Deed Records of Hays County, Texas, all of which being contained within a 45.961 Acre tract (Parcel 3) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Martha J. Parten, Deceased to Bill R. Hall, Trustee of the Martha J. Parten Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 669 of the Official Records of Hays County, Texas and all of an 45.961 Acre tract (Parcel 3) (Undivided $\frac{1}{2}$ Interest) conveyed from Bill R. Hall, Independent Executor of the Estate of Ben L. Parten, Jr. to Bill R. Hall, Trustee of the B. L. Parten, Jr. Trust by deed dated March 11, 2003 recorded in Volume 2175, Page 683 of the said Official Records of Hays County, Texas and being more particularly described by metes and bounds as follows to wit:

BEGINNING as a found $\frac{1}{2}$ " iron rod on the south line of a called 10.21 Acre tract conveyed to Wayne Hardin, et ux in Volume 300, Page 580, at the northeast corner of a public roadway dedicated by plat of the said Oakridge Park, Section 1 at Kinnicinnik, for the northwest corner of this tract;

THENCE along the common line between the said 45.961 Acre tract and the said 10.21 Acre tract and Lot 14 of the Whispering Oaks Subdivision - Phase II for the following courses and distances:

N $86^{\circ}58'59''$ E - 789.61 feet to a found $\frac{3}{4}$ " iron pipe for an exterior ell corner of this tract;
S $03^{\circ}01'01''$ E - 60.00 feet to a found 60D nail in the top of a fence corner post on the north line of the said Lot 10, for an interior ell corner of this tract;

N $86^{\circ}58'59''$ E - 186.26 feet to a found $\frac{1}{2}$ " iron rod at the northwest corner of Lot 13 of the said Whispering Oaks Subdivision - Phase II, for the common northeast corner of the said Lot 10, Block D, the said 45.961 Acre tract and of this tract;

THENCE S $02^{\circ}02'10''$ E - 2412.14 feet along the common line between the said Lots 10, 9, 8, 7, 6B, 5B, 4B, 2, and 1 respectively, the said Block D (the said 45.961 Acre tract) and the said Lot 13 (Whispering Oaks Subdivision - Phase II), a called 23.055 Acre tract conveyed to Barbara N. Poth in Volume 913, Page 520 and Lots 8, 7, 6, 5, 4, and 3 respectively of the Fox Run Estates to a set $\frac{5}{8}$ " iron rod on the common line between the said Moore Survey and the Seaborn J. Whatley Survey, A-18, at the northeast corner of a Public Roadway dedicated by the said plat of Oakridge Park, Section 1, At Kinnicinnik, for the common southeast corner of the said Lot 1, Block D (the said 45.961 acre tract) and of this tract;

THENCE S $87^{\circ}27'38''$ W - 278.69 feet along the common line between the said Moore and

Whatley Surveys, the common line between the said Lot 1, Block D (the said 45.961 Acre tract) and the said Public Roadway to a set 5/8" iron rod at the intersection of the north Right-of-Way line of the said Public Roadway and the east Right-of-Way line of another public Roadway dedicated by said Plat of Oakridge Park, Section 1, at Kinnicnik, at the northeast corner of the existing Right-of-Way of Kinnicnik Loop (County Road) at the southwest corner of the said Lot 1, for the common most southerly southwest corner of the said Block D, the said 45.961 Acre tract and of this tract;

THENCE along the common line between the said Lots 1, 2, a platted roadway (previously closed) and Lot 3A respectively, the said Block D, the said 45.961 Acre tract and the said Public Roadway for the following courses and distances:

N 02°01'31" W - 340.60 feet to a found 3/4" iron pipe at the northwest corner of the said Lot 1, the south corner of the said Lot 2, for an interior ell corner of this tract;
N 39°53'26" W - 255.83 feet to a set 5/8" iron rod at the southwest corner of the said Lot 2, the southeast corner of the said closed roadway, for an interior ell corner of this tract;
S 88°43'29" W - 60.78 feet to a found 3/4" iron pipe at the southwest corner of the said closed roadway, the southeast corner of the said Lot 3A, for an exterior ell corner of this tract;
N 89°42'14" W - 123.81 feet to a found 3/4" iron pipe for an interior ell corner of this tract;
S 86°25'24" W - 321.95 feet to a found 3/8" iron rod at the intersection of the north Right-of-Way line of the said Public Roadway and the east Right-of-Way line of a public roadway, at the southwest corner of the said Lot 3A, for the common most northerly southwest corner of the said Block D, the said 45.961 Acre tract and of this tract;

THENCE N 03°01'01" W - 1918.29 feet along the common line between the said Lots 3A, 4A, 5A, 6A, 7, 8, 9 and 10 respectively, the said Block D, the said 45.961 Acre tract and the said Public Roadway to the **POINT OF BEGINNING** containing within these metes and bound 45.961 Acres of land.

Bearings are based on the Texas State Plane Coordinate System of 1983, Texas Central Zone.

I, Bradley L. Lipscomb, Registered Professional Land Surveyor No. 5952 in the State of Texas, do hereby certify that this survey was performed on the ground under my supervision and that the field notes hereon are true and correct to the best of my knowledge.

Given under my hand and seal this 3rd day of July, 2007.

Bradley L. Lipscomb RPLS

