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April 28, 2014

RECEIVED

APR 29 2014

PUBLIC SERVICE
COMMISSION

UPS OVERNIGHT

Mr. Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

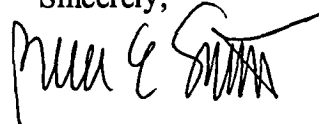
Re: Case No. 2013-00470

Dear Mr. Derouen:

Delivered under cover of this letter is an original and six (6) copies of my client's Responses to the Commission's Second Set of Information Requests.

Also delivered is an original and 10 copies of my client's Motion for Informal Conference with Commission Staff.

Sincerely,



Bruce E. Smith

Enclosures

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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APR 29 2014

PUBLIC SERVICE
COMMISSION

In the Matter of:

PROPOSED REVISIONS TO JESSAMINE-)
SOUTH ELKHORN WATER DISTRICT'S)
RULES REGARDING THE PROVISION)
SEWER SERVICE)

CASE NO. 2013-00470

MOTION FOR INFORMAL CONFERENCE WITH COMMISSION STAFF

Comes the Defendant, Jessamine-South Elkhorn Water District ("District"), by counsel, and respectfully requests an Informal Conference with Commission Staff. The District believes that such a conference would be beneficial to both it and the Commission in bringing this case to a conclusion.



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bruce@smithlawoffice.net
COUNSEL FOR DISTRICT

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

APR 29 2014

PUBLIC SERVICE
COMMISSION

In the Matter of:

PROPOSED REVISIONS TO JESSAMINE-)
SOUTH ELKHORN WATER DISTRICT'S)
RULES REGARDING THE PROVISION OF) CASE NO. 2013-00470
SEWER SERVICE)

JESSAMINE-SOUTH ELKHORN WATER DISTRICT'S RESPONSES TO THE
KENTUCKY PUBLIC SERVICE COMMISSION STAFF'S SECOND
SET OF REQUESTS FOR INFORMATION

Comes the Jessamine-South Elkhorn Water District ("Water District"), by counsel, and for its Responses to the Second Set of Requests for Information from the Kentucky Public Service Commission ("PSC"), answer as follows:

RESPONSES FOLLOW ON NEXT PAGE

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Jessamine-South Elkhorn Water District

Information Request No. 1: Prefer to Jessamine District's response to Commission Staff's First Request for Information ("Staff's First Request"), Item 3.

a. The response indicates that an error occurred in the calculation of the clerical hourly labor expense. The utility provided revised cost justification sheets for each of the non-recurring charges increasing the expense to provide each of the services. Does the utility intend to amend the application to request a higher justified charge than in its original application?

Answer: Respectfully, Jessamine District defers the answer to this question until it can schedule and participate in an informal conference with Commission Staff.

b. Provide a detailed explanation, including all calculations and documents, and state all assumptions relied upon to determine the \$38.15 hourly rate.

Answer:

\$28.91	(\$60,134.00* gross salary ÷ 2080 hours)
1.79	(annual SS withholding ÷ 2080 hours)
.41	(annual Medicare withholding ÷ 2080 hours)
1.73	(annual retirement withholding ÷ 2080 hours)
4.37	(annual health insurance coverage ÷ 2080 hours)
.01	(annual life insurance coverage cost ÷ 2080 hours)
.84	(annual unemployment insurance withholding ÷ 2080 hours)
<u>.09</u>	(annual workers compensation insurance cost ÷ 2080 hours)
\$38.15	Total

(All withholdings or other expenses are the employer's contribution only.)

*This annual salary has been increased to \$62,539.00 – since the last filing.

c. How many Jessamine District's employees are classified as clerical employees?

Answer: Two.

d. Provide the hourly rate, including all calculations, for each clerical employee:

Answer: \$17.46 (\$36,334.00 gross salary ÷ 2080 hours)
1.08 (annual SS withholding ÷ 2080 hours)
.25 (annual Medicare withholding ÷ hours)
1.04 (annual retirement withholding ÷ 2080 hours)
4.37 (annual health insurance coverage ÷ 2080 hours)
.01 (annual life insurance coverage cost ÷ 2080 hours)
.84 (annual unemployment insurance withholding ÷ 2080 hours)
.06 (annual workers compensation insurance ÷ 2080 hours)
\$25.11 Total

(All withholdings or other expenses are the employer's contribution only.)

[Witness: Diana Clark]

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Jessamine-South Elkhorn Water District

Information Request No. 2: Refer to Jessamine District's response to Staff's First Request, Item No. 4.

a. Provide a detailed explanation including all calculations and documents and state all assumptions relied upon to determine the \$36.55 hourly charge.

Answer: \$28.60 (\$59,500.00 gross salary ÷ 2080 hours)
 1.77 (annual SS withholding ÷ 2080 hours)
 .41 (annual Medicare withholding ÷ 2080 hours)
 .00 (annual retirement withholding ÷ 2080 hours)
 4.06 (annual health insurance coverage ÷ 2080 hours)
 .01 (annual life insurance coverage ÷ 2080 hours)
 .84 (annual unemployment insurance ÷ 2080 hours)
 .86 (annual workers compensation insurance cost ÷ 2080 hours)
 \$36.55 Total

(All withholdings or other expenses are the employer's contribution only.)

b. How many of Jessamine District's employees are classified as field employees:

Answer: One.

c. Provide the hourly rate, including all calculations, for each field employee.

Answer: See a. above.

d. Identify the location where most service-line inspections occur.

f. Explain why Jessamine District chose to use a vendor to install sewer connections.

Answer: The District believes it is less expensive to use a vendor (independent contractor) than it would be to employ staff on a full-time basis and purchase the necessary equipment.

g. Does Jessamine District employ personnel to install sewer connections?

Answer: No.

h. Provide justification for sewer installations based on short side and long side calculations using the average meter connection expense cost justification form. This form is normally used for water meter installation, but can be adapted for sewer installations. The form is attached as an appendix to this request for information.

Answer: No long side estimates were obtained because long side connections are a rarity. Newly constructed buildings most always require a short side connection and where new construction requires what might have to be a long side tap, the developer has already provided the street bore as part of the donated infrastructure for the project.

i. Indicate if the cost justification provided in response to Item 9 contains an average of both the short and long side.

Answer: No.

[Witness: L. Nicholas Strong]

Bruce Smith

From: ron eldridge [roneldridgeexcavating@gmail.com]
Sent: Wednesday, October 23, 2013 7:45 AM
To: Bruce Smith
Subject: Re:
Attachments: JSEWD4INAND6INSEWERTAP.pdf

Bruce,

Please see attached cost justifications.

Have a good day!

Ron Eldridge
Owner

Ron Eldridge Excavating, Inc.
1337 S. Main St.
Nicholasville, KY 40356
(859) 887-2620

JESSAMINE-SOUTH ELKHORN SEWER DISTRICT

NONRECURRING CHARGE COST JUSTIFICATION

Type of Charge: 6" SEWER TAP

1. Field Expense:

A.	Materials (Itemize) 26'-6" PIPE, 1- 8"X8"X6" TEE, 1-6"X6"X6" TEE, 2 END CAPS, 1-8" SLEEVE, 7 TON OF GRAVEL AND 1 MARKER POST	\$439.00
B.	Labor 6 HRS WITH 3 MEN @ \$56.00 PER HR EACH	\$1008.00
C.	Equipment 1 EXCAVATOR	\$280.00
D.	Miscellaneous (clean up, etc.) 2 MEN AND SKIDSTEER	\$190.00
	Total Field Expense	\$1917.00

2. Clerical and Office Expense

A.	Supplies	\$ _____
B.	Labor	_____
	Total Clerical and Office Expense	\$0.00

3. Miscellaneous Expense

A.	Transportation	\$ _____
B.	Other (Itemize)	
	Total Miscellaneous Expense	\$0.00

Total Nonrecurring Charge Expense **\$1917.00**

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Jessamine-South Elkhorn Water District

Information Request No. 3: Refer to Jessamine District's responses to Staff's First Requests, Item 9.a., 9.f., 9.g., 9.i., 9.m. and 9.n.

- a. Provide the name, address, and telephone number of the contractor.

Answer: Ron Eldridge Excavating, Inc.; 1337 South Main Street, Nicholasville, Kentucky 40356; and (859) 887-2620.

- b. Provide the written copy of the contractor's quote.

Answer: See attached.

c. The response to 9.i. includes the statement "See attached quote." This document was not attached. Provide this statement.

Answer: See b. above.

d. Identify, by name and address, vendors from whom Jessamine District has requested a quote for installing sewer connections.

Answer: Ron Eldridge Excavating, Inc., 1337 S. Main, Nicholasville, KY 40356.

- e. Identify the criteria for selecting the vendor to install sewer connections.

Answer: This was the only contractor who performed such work for the District.

f. Explain why Jessamine District chose to use a vendor to install sewer connections.

Answer: The District believes it is less expensive to use a vendor (independent contractor) than it would be to employ staff on a full-time basis and purchase the necessary equipment.

g. Does Jessamine District employ personnel to install sewer connections?

Answer: No.

h. Provide justification for sewer installations based on short side and long side calculations using the average meter connection expense cost justification form. This form is normally used for water meter installation, but can be adapted for sewer installations. The form is attached as an appendix to this request for information.

Answer: No long side estimates were obtained because long side connections are a rarity. Newly constructed buildings most always require a short side connection and where new construction requires what might have to be a long side tap, the developer has already provided the street bore as part of the donated infrastructure for the project.

i. Indicate if the cost justification provided in response to Item 9 contains an average of both the short and long side.

Answer: No.

[Witness: L. Nicholas Strong]

Bruce Smith

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Have a good day!

Ron Eldridge
Owner

Ron Eldridge Excavating, Inc.
1337 S. Main St.
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(859) 887-2620

JESSAMINE-SOUTH ELKHORN SEWER DISTRICT

NONRECURRING CHARGE COST JUSTIFICATION

Type of Charge: **6" SEWER TAP**

1. Field Expense:

A.	Materials (Itemize) 26'-6" PIPE, 1- 8"X8"X6" TEE, 1-6"X6"X6" TEE, 2 END CAPS, 1-8" SLEEVE, 7 TON OF GRAVEL AND 1 MARKER POST	\$439.00
B.	Labor 6 HRS WITH 3 MEN @ \$56.00 PER HR EACH	\$1008.00
C.	Equipment 1 EXCAVATOR	\$280.00
D.	Miscellaneous (clean up, etc.) 2 MEN AND SKIDSTEER	\$190.00
	Total Field Expense	\$1917.00

2. Clerical and Office Expense

A.	Supplies	\$ _____
B.	Labor	_____
	Total Clerical and Office Expense	\$0.00

3. Miscellaneous Expense

A.	Transportation	\$ _____
B.	Other (Itemize)	
	Total Miscellaneous Expense	\$0.00

Total Nonrecurring Charge Expense **\$1917.00**

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Jessamine-South Elkhorn Water District

Information Request No. 4: Refer to Jessamine District's response to Staff's First Request, Item 18. a.

a. Provide a copy of the contract with Lexington Fayette Urban County government referenced in the response.

Answer: See attached.

b. Provide all amendments to the original contract.

Answer: None.

c. Identify the specific section of the contract that obligates Jessamine District to pay the fees.

Answer: See numerical paragraphs six (6) and seven (7) of the agreement. Numerical paragraph seven (7) of the agreement incorporates the Site Specific Agreement ("SSA") attached and reference is made to numerical paragraph three (3) in the SSA.

[Witness: L. Nicholas Strong]

AGREEMENT

THIS AGREEMENT is made and entered into this 12 day of DEC, 2002 by and between Lexington-Fayette Urban County Government (hereinafter "LFUCG"), an urban county government duly created and existing pursuant to the provisions of Kentucky Revised Statutes Chapter 67A and the Jessamine-South Elkhorn Water District (hereinafter "Water District"), a water district duly created and existing pursuant to the provisions of Kentucky Revised Statutes Chapter 74.

WITNESSETH:

WHEREAS, the parties to this Agreement mutually agree that the citizens of Fayette and Jessamine Counties are best served by the most efficient and environmentally sound wastewater collection and treatment system; and

WHEREAS, the parties to this Agreement support sound Regional Planning; and

WHEREAS, the parties to this Agreement support efficient and cost effective provision of governmental services; and

WHEREAS, the parties to this Agreement support sound environmental planning; and

WHEREAS, as early as 1966, the City of Lexington, in the document entitled "Master Plan", a plan for the orderly and efficient collection and treatment of wastewater to serve area growth, depicted portions of watersheds in northern Jessamine County as potentially within the West Hickman Creek Treatment Plant service area, and

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9/3/2008
PURSUANT TO 807 KAR 5:011
EXHIBIT 9 (1)

By Stephanie Dumb
Executive Director

WHEREAS, the federally required Lexington-Fayette Urban County Government 201 Facilities Master Plan adopted by LFUCG on February 15, 1978 (hereinafter referred to as "201 Plan") again depicted portions of South Elkhorn and West Hickman watersheds in northern Jessamine County as potentially within the LFUCG's West Hickman Wastewater Treatment Plant service area; and

WHEREAS, the Kentucky Natural Resources and Environmental Protection Cabinet has consistently asserted that LFUCG is required under the 201 Plan to make available sewage treatment service to the northern Jessamine County watershed areas described in Section 1 below, and has required such in one case (See D.O.W. Agreed Order No. 95069); and

WHEREAS, LFUCG updated its 201 Plan, pursuant to KRS Chapter 224A, 401 K.A.R. 5:006, and per Agreed Order in D.O.W. Case No. 95069, which 201 Plan was approved by the Lexington-Fayette Urban County Council on May 6, 1999, via Resolution No. 231-99 and was approved by the Kentucky Division of Water on January 26, 2000; and

WHEREAS, the Kentucky Division of Water, as a condition for approval of LFUCG's updated 201 Plan, has required that sewer service be made available to the northern Jessamine County watersheds described in Section 1 below; and

WHEREAS, the Jessamine County zoning maps and the Jessamine County/Wilmore 1996 Comprehensive Plan do not indicate or anticipate significant development of the northern watershed areas, thereby allowing for establishment of

adequate and comprehensive long range policies, and for planning and zoning for future growth and for efficient future sewer service; and

WHEREAS, the parties recognize and agree that small treatment plants, septic tanks, pumping stations, inadequately sized, constructed, or maintained sewer lines and storm water systems in the Service Area described in Section 1 below will not benefit the citizens of either county; and

WHEREAS, the Jessamine Fiscal Court by Resolution duly adopted and of record in Fiscal Court Order Book 28, Page 626, has designated the Water District as the proper agency to provide sewage disposal services in the Service Area described in Section 1 below, with arrangements as permitted by law to be made between LFUCG and the Water District for the treatment of sewage; and

WHEREAS, the Water District, by Resolution duly adopted on August 9, 1995, resolved pursuant to KRS 74.407 to provide for a sewer system within its territorial boundaries and adjoining areas, which includes the Service Area described in Section 1 below; and

WHEREAS, the Water District has submitted to the Kentucky Division of Water a regional Facilities Plan pursuant to KRS Chapter 224 and 401 K.A.R. 5:006; and

WHEREAS, the Water District has determined that sewage generated in the Service Area described in Section 1 below should be treated by LFUCG at its West Hickman Wastewater Treatment Plant or other facility, instead of in a wastewater treatment facility constructed and owned by the Water District; and

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9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

WHEREAS, the Water District has determined treatment of sewage by LFUCG generated in the Service Area described in Section 1 below would be in the best interest of the residents of the Service Area;

NOW, THEREFORE, for and in consideration of the mutual promises and obligations made and exchanged in this Agreement, LFUCG and the Water District (hereinafter referred to as the Parties") agree as follows:

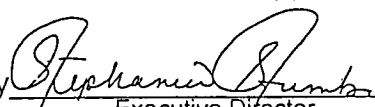
1. **SERVICE AREA.** The Service Area (hereinafter "Service Area") includes land located in northern Jessamine County in the South Elkhorn Creek Watershed and the West Hickman Creek Watershed and is more particularly described on attached Exhibits A and B.

2. **DEFINITIONS.** For purposes of this Agreement the following terms and phrases shall have the following meanings:

a) "Clean water" includes but is not limited to storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water.

b) "Connections to LFUCG's sewer system means connections directly to LFUCG's sewer system or connections to the Water District's sewer lines for the purpose of collecting, transporting or pumping sewage from the Service Area to LFUCG's sewer system.

c) "Excessive infiltration and inflow" means a high groundwater or rainfall induced sewage flow rate in all or any portion of the Water District's sewer lines exceeding either:

PUBLIC SERVICE COMMISSION
Water District Sewer Lines
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9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

1. 275 gallons per capita per day based on the maximum flow received during a twenty-four (24) hour period exclusive of industrial flow; or

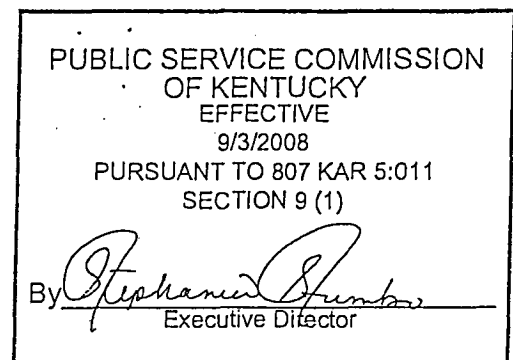
2. More than 120 gallons per capita per day based on the annual average of daily flows for the most recent twelve (12) months exclusive of industrial flow.

d) "Infiltration" means water other than wastewater that enters a sewer system from the ground through means such as defective pipes, pipe joints, connections, manholes, or by any other means.

e) "Inflow" means water other than wastewater that enters a sewer system from means such as roof leaders, yard drains, area drains, drains from springs or swampy areas, openings in manhole covers, cross connections with storm sewers, catch basins, cooling towers, storm waters, source runoff, street wash waters, drainage, or any other source which directs rainwater into the sewer system.

f) "Sewage" means the water carried human or animal wastes, including septic effluent, from residences, buildings, or other places, together with industrial wastes or underground, surface, storm or other water, as may be present, but does not include septic solid waste or sewer sludge.

g) "Sewer line" means sewer lines, pump stations, force mains and other constructions or devices used for collecting, transporting, pumping, measuring or disposing of sewage.



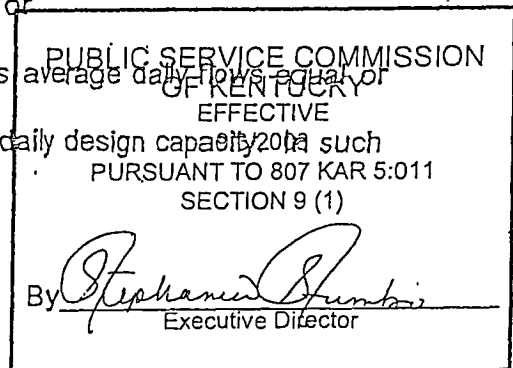
h) "Sewer system" means, individually and collectively, the network of sewer lines, pump stations, force mains and other constructions or devices that discharge into a wastewater treatment plant.

i) "Wastewater treatment plant" means a facility used for the treatment and disposal of sewage.

3. LFUCG'S AGREEMENT TO TREAT. The parties agree that LFUCG shall treat no sewage generated in Jessamine County, Kentucky, outside the boundaries of the Service Area described in Section 1 above. LFUCG agrees to accept into its sewer system and treat up to 2,000,000 gallons per day of sewage generated in the Service Area, calculated on the basis of average daily flows, subject to all the terms, conditions and limitations set forth in this Agreement. Average daily flows shall be calculated by dividing total flows for the most recent twelve (12) months by the number of days in the most recent twelve (12) months. Provided, however, no property in the Service Area shall be permitted to connect to LFUCG's sewer system if:

a) Inadequate capacity exists in LFUCG's existing sewer lines at the time the property applies for connection (including capacity that will be required for approved Fayette County development plans), based upon LFUCG's duly adopted and printed engineering standards, procedures, manuals, and policies in effect at the time of application, and plans to finance and construct new sewer lines or to replace or improve existing sewer lines have not been approved by LFUCG; or

b) the West Hickman sewage treatment plant's average daily flows equal or exceed 90% of the treatment plant's permitted average daily design capacity.

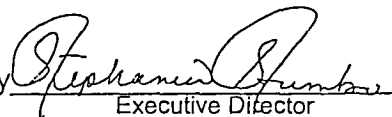


case the remaining treatment plant capacity shall be exclusively reserved for Lexington-Fayette Urban County development needs, and no additional properties in the Service Area shall be permitted to connect to LFUCG's sewer system until such time as the West Hickman Treatment Plant's treatment capacity has been expanded.

4. JUDICIAL APPROVAL. LFUCG shall provide no sewage treatment to the Service Area until such has been approved by appropriate order entered in *Lexington-Fayette Urban County Government vs. Jessamine County Fiscal Court, et al.*, Jessamine Circuit Court Civil Action No. 81-CI-047.

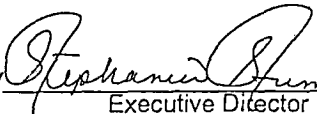
5. FACILITY PLAN. Except as is otherwise provided in Section 7 below, LFUCG shall provide no sewage treatment services for the Service Area until the Water District has been designated a Regional Planning Agency and has prepared and the Kentucky Division of Water (hereinafter "D.O.W.") has approved a Facilities Plan prepared pursuant to KRS Chapter 224 and 401 K.A.R. 5:006.

The Parties agree that LFUCG's right to treat sewage in the Service Area is not exclusive, and nothing in this Agreement shall preclude the Facilities Plan for the Service Area from proposing sewer lines from the Service Area to publicly owned sewer systems operated by the City of Nicholasville or other public sewage treatment entity, and such sewer lines shall not be required to conform to LFUCG engineering standards, manuals, procedures, and policies as is required by this Agreement for sewer lines connected to LFUCG's sewer system. To the extent the Water District Facilities Plan provides for treatment of sewage from the Service Area by LFUCG, however, the

Water District Facilities Plan
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9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

Parties agree that in addition to all requirements of KRS Chapter 224, 401 K.A.R. 5:006 and other D.O.W. guidance and requirements, the Facilities Plan shall:


- a) Describe in detail the extent to which the Water District anticipates utilizing LFUCG's sewer system for conveyance and treatment of sewage generated in the Service Area;
- b) Describe the size and location of all proposed trunk sewer lines and other sewage handling, transmission, or processing facilities;
- c) Provide that trunk sewer lines shall be designed, sized, constructed and financed to assure construction of a viable permanent sewer system and to avoid construction of inadequate temporary facilities;
- d) Require all plan specifications for and construction of sewer and storm water facilities in the Service Area to be in conformity with all LFUCG duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction;
- e) Include a statement of policy disfavoring ~~and restricting~~ on-site sewage disposal systems, septic tanks, and pump stations in the Service Area;
- f) Be prepared in accord with accepted current best engineering, environmental, and planning and zoning practices;
- g) Detail the extent to which LFUCG's sewer system must be improved, upgraded, up-sized, or expanded to convey sewage generated in the Service Area and shall describe how such improvements shall be financed.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

6. CONSTRUCTION COSTS. The Water District agrees to pay all costs related to construction of sewer lines necessary to transport sewage from the Service Area to LFUCG's sewer system. The Water District also agrees to pay all easement acquisition, engineering, construction, and other costs, of any kind, related to improving, upgrading, up-sizing, or expanding LFUCG's network of sewer lines, pump stations, force mains and other constructions or devices that discharge into a wastewater treatment plant, if such is necessary to transport sewage from the Service Area to LFUCG's West Hickman Wastewater Treatment Plant.

7. SITE SPECIFIC SERVICE AGREEMENTS. The Water District agrees to give LFUCG written notice of the proposed connection of any property in the Service Area to LFUCG's sewer system a minimum of three months before an application for a DOW construction permit is filed for the property to allow LFUCG sufficient time to review available sewer line and treatment plant capacity, inflow and infiltration conditions, proposed development and construction plans and specifications, and cost recovery plans, and to allow sufficient time to draft a proposed Site Specific Service Agreement. The Parties agree that no property in the Service Area shall connect to LFUCG's sewer system until LFUCG and the Water District have entered into a Site Specific Service Agreement with the appropriate person or entity having legal authority to enter into an agreement affecting the property (hereinafter referred to as "Developer"). Except as is

otherwise provided in Section 3 above, LFUCG agrees that it shall approve all site specific service agreements if: (a) cost recovery and technical aspects of the planned sanitary sewer lines, storm water system, and other infrastructure elements of the

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
KRS 192.015-011
SECTION 9 (1)
By 
Executive Director

development meets or exceeds LFUCG's duly adopted and printed infrastructure requirements existing at the time of submittal for similar Fayette County developments in existence at the time of submittal; and (b) the terms and conditions of the Service Agreement fully comply with the terms and conditions set forth in this Agreement. The parties agree, however, that LFUCG may withhold approval of any site specific service agreement if the Water District has failed to eliminate excessive infiltration and inflow, as provided in Section 13 below. Notwithstanding the foregoing conditions of LFUCG's approval of Site Specific Service Agreements, the Water District may withhold approval and veto any proposed project based upon duly adopted and printed ordinances and regulations it may promulgate.

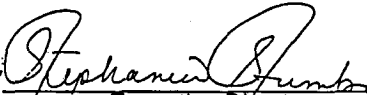
LFUCG may require the Site Specific Service Agreement to include any term or condition that it usually and normally requires in its duly adopted and printed regulations for sanitary sewer lines and other infrastructure elements of any similar development in Fayette County, and shall include the following:

a) Detailed plans, construction specifications, cost recovery plans, maintenance and repair requirements, timelines for connection, and agreements on the specific amount of treatment capacity LFUCG is to provide the property;

b) An agreement by the Developer to pay the full cost of sewer service to the property, including but not limited to design and construction costs, plan review fees, inspection fees, tap-on fees, sewer user fees, extra strength sewer pipes and manholes, incidental service fees, including general contract administration and emergency services;

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By


Executive Director

c) An agreement by the Developer that all sewer and storm water facilities on the property shall be designed, constructed, and inspected, warranted, bonded, or assured according to LFUCG's duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction, which would be applicable to similar developments in Fayette County, and with drainage controls as provided in Section 9 below;

d) An agreement by the Developer to fully comply with LFUCG's pretreatment ordinance set forth in LFUCG's Code of Ordinances, Section 16-42 to 16-46 and 16-50, as the same may be amended from time to time, as provided in Section 11 below.

Provided, however, that after receiving written notice as provided in Section 19 below a minimum of thirty (30) days prior to application for a connection permit from the Kentucky Division of Plumbing, LFUCG's Commissioner of Public Works may waive any term, condition or requirement of this Agreement and approve connection of the following described facilities to LFUCG's sewer system, on the same terms, conditions and requirements that LFUCG would impose on or require of similarly situated facilities located in Fayette County;

a) Existing sewage generating facilities and improvements developed prior to the date of execution of this Agreement; and

b) Existing sewage generating facilities and improvements, whether developed before or after the date of this Agreement, upon written certification of the Jessamine County Health Department that connection to LFUCG's sewer system is

PUBLIC SERVICE COMMISSION
OF KENTUCKY
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

desirable to resolve or prevent an environmental emergency causing or threatening to cause damage to the environment or human health.

8. **OWNERSHIP OF FACILITIES AND PERMITS.** The Parties agree that legal title to all sewer lines in the Service Area eight (8) inches in diameter or greater, all force mains and all pumping stations authorized under Section 10 below, shall be vested in the Water District in a document recorded of record in the Jessamine County Clerk's Office, which grants LFUCG a full access easement. The Parties further agree that individual property owners, property owner associations, private developers, and other persons or entities shall have no ownership interest in such lines or pump stations. The Water District agrees that it shall have sole responsibility and LFUCG shall have no responsibility for obtaining all federal, state or local sanitary sewer or storm water permits required to operate and maintain sewer lines owned by the Water District. The Water District further agrees to obtain a Kentucky Intermunicipal Operational permit issued pursuant to 401 KAR 5:005.

9. **SURFACE WATER DRAINAGE.** The Parties agree that development in the Service Area may impact existing surface water drainage patterns and that appropriate watershed drainage controls are essential to protect stream quality and private and public property. The Parties agree that property in the Service Area may not be permitted to connect to LFUCG's sewer system, unless at the time the property connects, storm water drainage structures on the property have been designed and constructed in accordance with LFUCG's duly adopted and printed engineering standards, manuals, procedures, and policies in effect at the time of construction.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 007 KAR 5:011
SECTION 9 (1)
By Stephanie Rumba
Executive Director

10. PUMP STATIONS. The Parties agree that LFUCG shall treat no sewage in Jessamine County generated outside the boundaries of the Service Area, either by gravity flow or pump station. The Parties further agree that sewer service to properties within the Service Area shall be by gravity flow, unless LFUCG's Commissioner of Public Works determines in a written opinion that a pump station is necessary based on the following criteria:

- a) To provide service to property developed in the Service Area prior to execution of this Agreement; or
- b) Is more efficient in order to minimize disruption to existing Fayette County neighborhoods; or
- c) Because of inadequate downstream easements or sewer line capacity, or for other technical reasons conveyance by gravity flow is impractical.

11. SEWAGE PRETREATMENT. The Water District agrees to comply and to require its agents, developers, and customers to comply with LFUCG's pretreatment ordinances in LFUCG's Code of Ordinances Sections 16-42 through 16-46 and 16-50, as the same may be amended from time to time. The Parties agree that LFUCG shall have sole authority to issue pretreatment permits in the Service Area and to establish pretreatment standards and requirements which shall be the same as those established for users in Fayette County, and that LFUCG may pursue any available legal or equitable remedy against the Water District or its agents, developers, or customers for violation of LFUCG's pretreatment ordinance, and may additionally pursue any

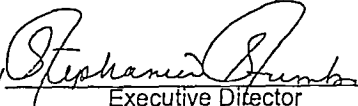
PUBLIC SERVICE COMMISSION
OF KENTUCKY
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9.(1)
By Stephanie Hunter
Executive Director

discontinue wastewater service to any industrial, commercial, or business customer of the Water District in the Service Area that violates LFUCG's pretreatment ordinance.

The Parties agree that any property in the Service Area subject to LFUCG's pretreatment ordinances which applies for or receives sanitary sewer service may be required to construct a sewer system access "test" manhole and LFUCG shall be provided a full access easement to the manhole in a document recorded in the Jessamine County Clerk's Office. The manhole shall be located outdoors, shall not be gated, and LFUCG's full and immediate access at all times to the manhole shall not be restricted by the Water District, its agents, developers, or customers.

12. **CLEAN WATER DISCHARGES.** The Water District agrees to prohibit its customers from discharging through sump pumps, roof drains, area or other drains, or any other source, any clean water to any sewer line, and further agrees that it shall take any and all steps reasonable or necessary to prevent or disconnect any such discharge sources.

13. **INFILTRATION AND INFLOW.** The Water District agrees to require its developers or customers to install state-of-the-art wastewater flow measuring devices as required by site specific contracts approved by LFUCG pursuant to Section 7 above, capable of accurately recording and documenting actual sewage flows into LFUCG's sewer system. LFUCG and the Water District shall determine the point of location of each such measuring device. The Water District agrees to require its developers or customers to pay all costs related to purchase and installation of the measuring devices.

PUBLIC SERVICE COMMISSION
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

If any measuring device records excessive infiltration or inflow, LFUCG shall provide written notice by certified mail to the Water District and the Kentucky Division of Water of such excessive infiltration and inflow. Upon receipt of such notice the Water District agrees to fully comply with 401 KAR 5:005, Section 9(4) (5) (6) and (7).

If the Water District has not eliminated excessive infiltration and inflow within eighteen (18) months after LFUCG's notice to the Water District, or within such lesser time as may be required by any state or federal agency with jurisdiction to enforce state or federal infiltration and inflow regulations, LFUCG may deny further connections to LFUCG's sewer system and the Water District agrees to pay to LFUCG the following:

a) A monthly sewer user fee surcharge at the per gallon rate specified in Section 16-59 of LFUCG's Code of Ordinances, as amended from time to time, for actual sewage flows as measured by the measuring devices exceeding sewage flows calculated on the basis of monthly water usage as provided for in Section 16-59 of LFUCG's Code of Ordinances, as amended from time to time;

b) Within sixty (60) days of written demand from LFUCG, a treatment plant capacity surcharge for actual sewage flows as measured by the measuring devices in all or any portion of the Water District's sewer lines that exceed the treatment plant capacity for which LFUCG has previously been paid tap-on or connection fees, based upon the then current per gallon cost of expanding LFUCG's treatment plant capacity.

An additional two (2) years to eliminate excessive infiltration and inflow may be permitted at the discretion of LFUCG's Commissioner of Public Works (which shall not

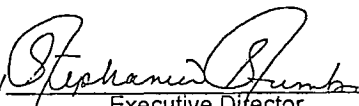
PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By Stephanie Hunter
Executive Director

be unreasonably withheld) if engineer certifiable reductions are, in fact, taking place and an on-going program to further address the problem is established and enforced.

The Parties further agree that treatment plant capacity made available to the Service Area is limited to 2,000,000 gallons per day based on the average daily flow as set forth in Section 3 above, and is the maximum capacity to be made available to the Service Area for sewage flows, including inflow and infiltration of ground water or surface water.

14. **SEWER USER FEES.** The Water District agrees to pay to LFUCG sewer user fees as set forth in Section 16-59, of LFUCG's Code of Ordinances, as the same may be amended from time to time. The user fees shall be calculated based upon the monthly water use of all sewer service customers in the Service Area for which LFUCG provides sewage treatment. As specified in Section 16-59, an extra strength treatment surcharge may be added by LFUCG for any month in which LFUCG sampling shows that the sewage discharge exceeds specified parameters for suspended solids, ammonia, nitrogen, or biochemical oxygen demand, or other parameters as the ordinance is amended from time to time.

The monthly sewer user fees shall be charged by LFUCG directly to the Water District on a single invoice each month, and shall be paid by the Water District directly to LFUCG each month by the due date specified on the invoice. Unpaid sewer user fees shall be subject to late payment penalty and interest as set forth in KRS 45.454. LFUCG shall be entitled to recover all reasonable costs of collection, including reasonable attorney's fees.

OFFICE OF KENTUCKY
PUBLIC SERVICE COMMISSION
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

To facilitate sewer user fee billing, the Water District shall provide LFUCG a monthly statement of the total chargeable water use for the Service Area and a printout showing the water use by each customer for all sewer customers in the Service Area. The printout shall show each customer's name, water service account number, service address, meter reading for the month, and volume of water use for the month. LFUCG shall have the right to reasonable access to Water District records for the purpose of auditing individual water consumption figures furnished by the Water District, and the Water District shall have reasonable access to LFUCG records for purpose of auditing the accuracy of LFUCG charges to the Water District.

The Water District agrees that LFUCG shall have the right to periodically adjust sewer user and other fees it charges all customers within Fayette County and the Service Area and it agrees to pay such revised rates. LFUCG agrees to give the Water District, its agents, developers, or customers the same advance notice of such fee increases as is provided to Fayette County customers.

15. **FAILURE TO PAY.** The Water District agrees that if it or its agents, developers, or customers fail to pay any costs, fees, user fee, surcharge fee, or other fee or cost of any kind provided for in this Agreement, LFUCG may pursue any available equitable or legal remedy, and shall be entitled to recover all reasonable costs of collection, including reasonable attorneys fees, and additionally, may prohibit any future connections of properties in the Service Area to its sewer system, or after thirty (30) days written notice to the Water District, or its agents, developers, or customers, disconnect any such nonpaying customers in the Service Area from LFUCG's sewer

PUBLIC SERVICE COMMISSION
EFFECTIVE 9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

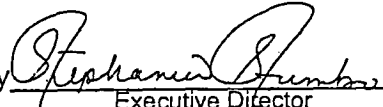
system. Likewise LFUCG agrees that if it, or its agents, fail to comply with its obligations hereunder, the Water District may pursue any available equitable or legal remedy, and shall be entitled to recover all reasonable costs of enforcement, including reasonable attorney's fees.

16. INSPECTION, MAINTENANCE, AND REPAIRS. The Water District agrees to regularly inspect, monitor, maintain, and repair at its expense, its sewer lines within the Service Area. The Parties agree that LFUCG shall have access to and may inspect at any time any portion of the Water District's sewer lines within the Service Area, and may make emergency repairs to the sewer lines if such are reasonable or necessary to protect LFUCG's wastewater treatment plant, sewer system or drainage ways. The Water District agrees to reimburse LFUCG for its reasonable expenses incurred in emergency repairs within sixty (60) days of receipt of billing from LFUCG. LFUCG agrees to provide the Water District with documentation of emergency repairs conducted and to advise on other repairs needed to return the Water District's sewer lines to normal operational status, which the Water District agrees to complete within a reasonable time, not to exceed ninety (90) days.

17. REPORTING REQUIREMENTS. The Water District shall provide in writing to LFUCG (at the time of their filing in Jessamine County) copies of any and all:

a) Cost recovery plans or plans for construction, maintenance, or replacement of sewer lines in the Service Area;

b) Legal changes in the Water District organizational structures, including ownership, service areas, or major proposed financings;


PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

c) Meeting dates and places of local, state or federal boards or agencies of which the Water District has notice and at which sewer service in the Service Area will be discussed. The Water District agrees it shall do nothing to prevent LFUCG from appearing and being heard at any such meeting, relative to wastewater matters, and to express its views as to how plans or proposals may impact either the short or long term efficiency of financing and constructing sewer facilities, or impact environmental conditions in the Service Area. Likewise, the Water District shall do nothing to prevent any written or oral comments by LFUCG from being made a part of the record proceedings.

d) The Water District shall provide LFUCG with an annual calendar report documenting the full "build out" estimate of sewage generation for each approved plan for construction or development in the Service Area, on or before April 30 of the year following execution of this Agreement and on the same date in subsequent years. The report shall include a capacity consumption baseline with the annual increase in capacity consumption detailed to show the current year's construction along with past years' activities. The report shall also include a report on the condition of the sewer lines within the Service Area prepared by a professional engineer with training and experience in sanitary sewer systems. The annual report shall contain such other information and data as the parties shall mutually agree.

The Water District shall use its best efforts to provide or to arrange for the Jessamine County Fiscal Court or its planning boards or commissions to provide in writing to LFUCG (at the time of their filing in Jessamine County) copies of any and all:

PUBLIC SERVICE COMMISSION
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

- a) Proposals for alternative sewage treatment or conveyance systems in the Service Area, including on-site sewage disposal systems, pump stations, or septic tanks (excluding agricultural homes or farm facilities);
- b) Development proposal or plan which differs from the approved Water District Facilities Plan;
- c) Proposed amendments to the Jessamine County/Wilmore Comprehensive Plan impacting the Service Area;
- d) Annexation proposals in or immediately adjacent to the Service Area;
- e) Zone change requests in the Service Area;
- f) Proposed subdivision or development construction in the Service Area;
- g) Building permits issued for developments in the Service Area;

18. **DIVERSION OF FLOWS.** The Parties contemplate that sewage from the Service Area will be treated at LFUCG's West Hickman Wastewater Treatment Plant, but the Parties agree that LFUCG in its sole and absolute discretion and at its own cost may divert sewage flows from the West Hickman Wastewater Treatment Plant to alternative treatment facilities; and any such diversion shall not alter or amend the Water District's financial obligations under this Agreement, and shall not create any grounds for a claim by the Water District, financial or otherwise, against LFUCG.

The Parties also agree that the Water District in its sole and absolute discretion may divert sewage flows from the Service Area from an existing LFUCG's system to another publicly owned treatment plant facility in Jessamine County, but such

PUBLIC SERVICE COMMISSION
 EFFECTIVE 9/3/2008
 PURSUANT TO 807 KAR 5:011
 SECTION 9 (1)
 By Stephanie Dumber
 Executive Director

diversion shall not serve as the basis for any claim by the Water District for a refund of any past payments under this Agreement to LFUCG, nor shall it create any grounds for a claim by LFUCG, financial or otherwise, against the Water District.

19. NOTICE PROVISIONS.

All notices required under this Agreement shall be by certified mail directed to:

To Lexington-Fayette Urban County Government:

Office of the Mayor
200 East Main Street
Lexington, KY 40507

and

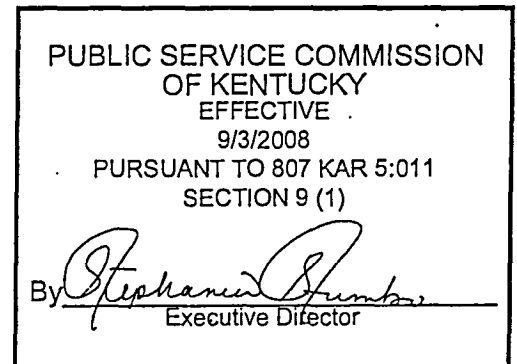
Office of the Urban County Council
200 East Main Street
Lexington, KY 40507

and

Urban County Engineer
Division of Engineering
200 East Main Street
Lexington, KY 40507

and

Director
Division of Sanitary Sewers
301 Lisle Industrial Road
Lexington, KY 40511



To the Water District:

Chairperson
Jessamine-South Elkhorn Water District
117 South Main Street
Nicholasville, KY 40356

20. **GOVERNING LAW.** This Agreement has been entered into in Fayette County, Kentucky, and shall be interpreted under and governed by the laws of the Commonwealth of Kentucky and LFUCG's Code of Ordinances and engineering manuals, standards, practices and procedures. The Parties agree that any litigation related to the terms of this Agreement shall be brought in the Franklin Circuit Court, Frankfort, Kentucky, and the Parties acknowledge that venue shall be proper in such court.

21. **DURATION AND TERMINATION.** The duration of this Agreement shall be for a term of forty (40) years, or for such longer term as may be necessary to comply with the terms of any loan, grant or bond issue which the Water District obtains or receives for the purpose of constructing, operating or maintaining its sewer lines, and shall be renewed for a like term unless one of the parties to the Agreement gives written notice to the other party of an intent to terminate. Said notices must be given at least one (1) year but not more than three (3) years prior to the expiration of the original term of this Agreement.

This Agreement may be terminated at any time upon written agreement of the Water District and LFUCG, but termination of the Agreement shall not provide the basis

PUBLIC SERVICE COMMISSION
OF KENTUCKY
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

for a claim against LFUCG for a refund of any past payment of any sums to LFUCG under this Agreement.

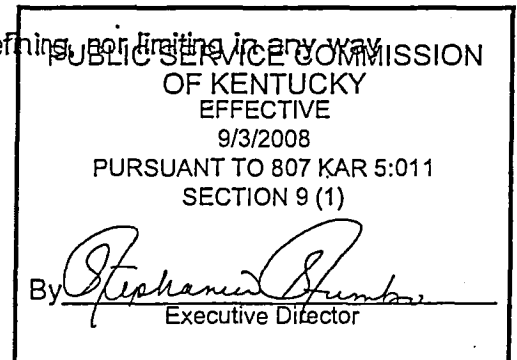
The Parties acknowledge that LFUCG's West Hickman Wastewater Treatment Plant may from time to time be expanded, and the Parties agree that LFUCG may terminate this Agreement if appropriate officers of Jessamine County refuse or fail in a timely manner to provide LFUCG with building permits or other authorizations for expansion of West Hickman Wastewater Treatment Plant upon LFUCG's presentation of appropriate applications.

22. SUCCESSORS AND ASSIGNS. This Agreement shall be binding on LFUCG, the Water District, and their respective successors and assigns.

23. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court, or by the Public Service Commission or other administrative body of competent jurisdiction, such holding shall invalidate and render unenforceable all other provisions herein, except to the extent of any obligations that remain outstanding.

24. INTERPRETATION. LFUCG and the Water District agree that both have participated in the drafting and negotiation of this Agreement and this Agreement shall not be interpreted against either party by virtue of having participated in such drafting and negotiation.

25. CAPTIONS. The captions of this Agreement are for convenience only and are not to be construed as part of the Agreement, nor as defining, or limiting in any way, the scope of the provisions herein.



26. ENTIRE AGREEMENT. This Agreement supersedes all previous agreements, oral or written, between LFUCG and the Water District, and represents the entire agreement between the Parties. No other agreements or representations, oral or written, have been made by LFUCG or the Water District. This Agreement may not be altered, modified, or amended, except in a writing properly executed and approved by LFUCG and the Water District.

IN WITNESS WHEREOF, the Parties hereto have caused their respective signatures to be affixed hereto by their proper officers duly authorized, all as of the day and year first above written.

JESSAMINE - SOUTH
ELKHORN WATER DISTRICT

BY: [Signature]
ITS: Chairman
Pursuant to Resolution of Board of Commissioners
Passed: 12-7-2002

ATTEST:

[Signature]
Secretary

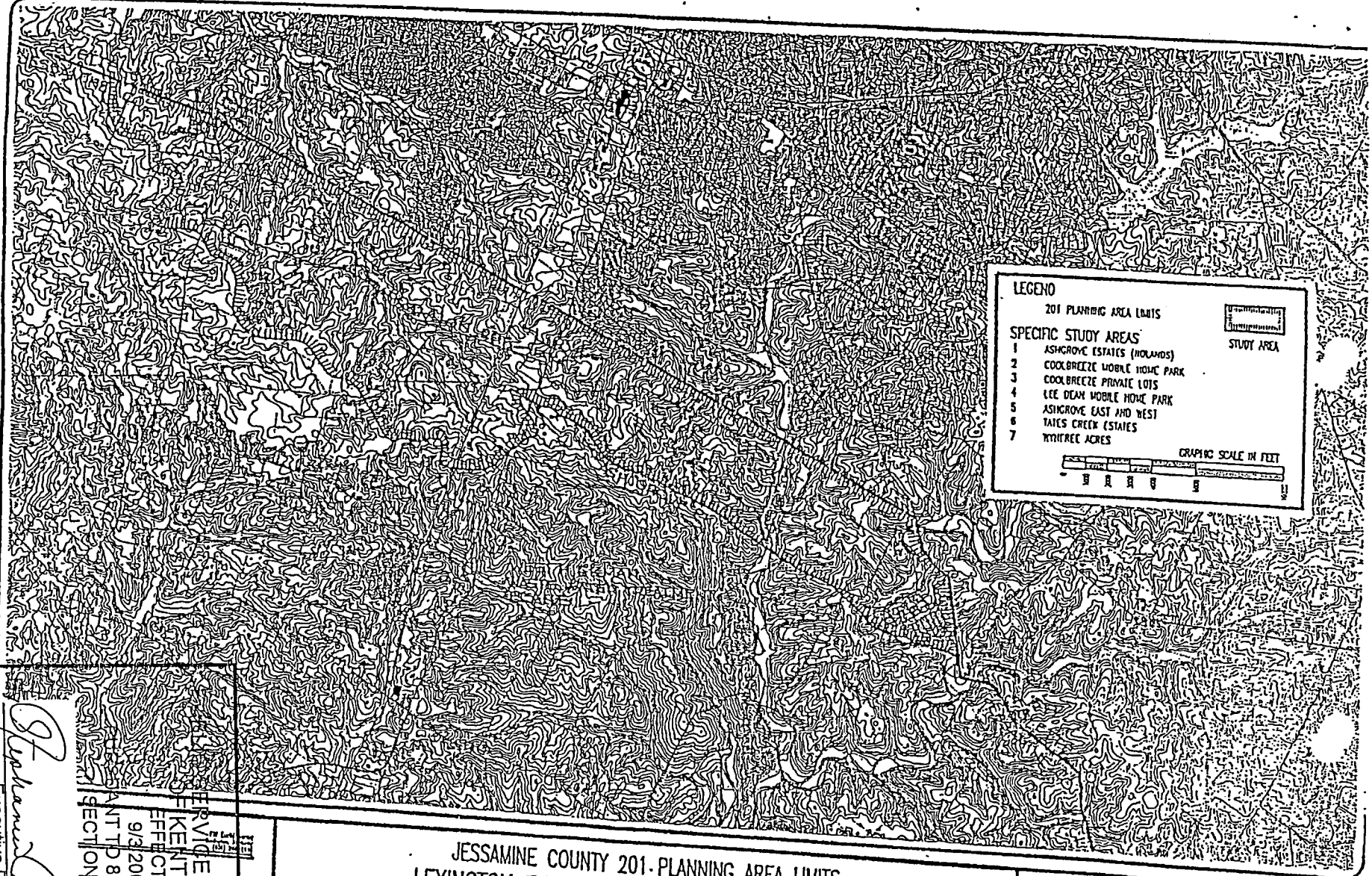
LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

BY: [Signature]
ITS: Mayor
Pursuant to Resolution 690-2002
Passed 12/12/2002


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
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OF KENTUCKY
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9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By [Signature]
Executive Director




LEGEND

201 PLANNING AREA LIMITS 

SPECIFIC STUDY AREAS 

- 1 ASHCROVE ESTATES (HOLLANDS)
- 2 COOLBREEZE MOBILE HOME PARK
- 3 COOLBREEZE PRIVATE LOTS
- 4 LEE DEAN MOBILE HOME PARK
- 5 ASHCROVE EAST AND WEST
- 6 TALES CREEK ESTATES
- 7 WYTHREE ACRES

GRAPHIC SCALE IN FEET



Stephanie P. ...
 Executive Director

PLANNING SERVICE COMMISSION
 KENTUCKY
 EFFECTIVE
 9/3/2008
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 SECTION 9 (1)

JESSAMINE COUNTY 201-PLANNING AREA LIMITS
 LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

PROPOSED
 JESSAMINE COUNTY
 201 PLANNING AREA
 FEBRUARY 1998



EXHIBIT B

Parcel 1:

Beginning at a point, said point being the center line intersection of Harrodsburg Road and Brannon Road; thence with the center line of Brannon Road S 66° 04' E 655 feet; thence with a new line S 18° 44' W 1417.21 feet to a point in the line of Zarring; thence with the line of Zarring N 64° 01' W 657.67 feet to a point in the center line of Harrodsburg Road; thence with the center line of Harrodsburg Road N 18° 44' E 1393.66 feet to the point of beginning, containing 21.049 gross acres.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated March 5, 1975, from Kindred Homes, Inc., a Kentucky corporation, of record in Deed Book 133, Page 324, in the Jessamine County Clerk's office.

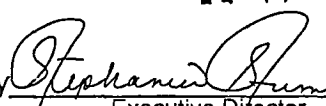
Parcel 2:

Being all of Parcel B, as shown on the Minor Consolidation Plat of Parcels A and B, Southland Christian Church Property, of record in Plat Cabinet 5, Slide 181-B, Jessamine County Clerk's office, to which plat referenced is hereby made for a more particular description of said property.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated July 30, 1992, from Billy M. Oaks and Mabel L. Oaks, his wife, of record in Deed Book 290, Page 465, in the Jessamine County Clerk's office.

Parcel 3:

From an iron spike at the intersection of the centerline of U.S. 68 and the original centerline of Brannon Road, thence S 18° 44' W, 1393.66 feet to an iron spike at the centerline of U.S. 68, thence S 64° 01' E, 2889.76 feet to an iron pin at the true point of beginning, said point located at the northeast corner of Parcel B as shown on the Minor Consolidation Plat of Parcels A and B, Southland Christian Church Property in Plat Cabinet 5, Slide 181-B, Jessamine County Clerk's office, thence from said point of beginning S 72° 33' 26" E, 53.13 feet to a steel fence pole, thence with existing chain link fence S 20° 34' 58" W 614.58 feet to an iron pin in said fence, thence N 65° 33' 36" W, 26.58 feet to an iron pin at the southeast corner of said Parcel B, thence with the east line of Parcel B, N 18° 05' 30" E, 610.46 feet to the point of beginning, and containing 0.559 acres.

PUBLIC SERVICE COMMISSION OF KENTUCKY	
DETECTIVE	
9/3/2008	
PURSUANT TO 807 KAR 5:011	
SECTION 9(1)	
By	 IT
	Executive Director

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by quitclaim deed dated July 30, 1992, from Billy M. Oaks and Mabel L. Oaks, his wife, of record in Deed Book 290, Page 468, in the Jessamine County Clerk's office.

Parcel 4:

All of Lot No. 1, being 12.00 acres more or less, of the Mabel L. Oaks Property, as shown on Minor Subdivision Plat of the Mabel L. Oaks Property, of record in Plat Cabinet 8, Slide 286, in the Jessamine County Clerk's office.

Being the same property conveyed to Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation, by deed dated July 27, 1998, from Mabel L. Oaks, a widow, of record in Deed Book 389, Page 111, in the Jessamine County Clerk's office.

Parcel 5:

All of Lot 2, being 30.777 acres more or less, of the Mabel L. Oaks Property, as shown on the Minor Subdivision Plat of the Mabel L. Oaks Property, of record in Plat Cabinet 8, Slide 286, in the Jessamine County Clerk's office.

Being the same property leased and including an Offer to Purchase Contract setting out the purchase price and terms entered into on the 3rd day of November, 1994, by and between Billy M. Oaks and Mabel L. Oaks and the Southland Christian Church of Lexington, Kentucky, Inc., a Kentucky nonprofit corporation. The aforementioned Lease has not yet been put to record.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)

By 
Executive Director

SITE SPECIFIC AGREEMENT/SINGLE PHASE(LFUCG) – RE: (PROJECT NAME)

This Site Specific Agreement (the "Agreement") is made and entered into C1, by and between the LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, hereinafter "LFUCG"; JESSAMINE-SOUTH ELKHORN WATER DISTRICT, hereinafter "JSEWD"; and C2, hereinafter "C4".

WITNESSETH:

WHEREAS, C4 owns real estate located in Jessamine County, Kentucky, as more particularly described in Exhibit "1" and as shown on the Site Plan in Exhibit "2", attached hereto (the "Property"); and

WHEREAS, the parties acknowledge that there is limited sanitary sewer capacity available; and

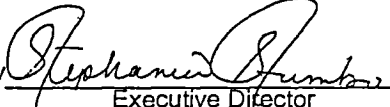
WHEREAS, the parties further acknowledge the importance of and the interrelationship of storm water as it may impact sanitary sewer collection and conveyance; and

WHEREAS, conditioned upon C4's compliance with and subject to the terms and conditions of this Agreement, JSEWD and LFUCG are willing to provide sanitary sewer service to the Property.

NOW, THEREFORE, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, C4, JSEWD and LFUCG hereby covenant and agree as follows:

1. **Sewer Capacity**. The parties agree that the sanitary sewer capacity needed to provide service to the Property shall not exceed C5 gallons per day (average daily flow) for sewage collection and conveyance.

2. **Agreement to Serve**. Conditioned upon C4's full compliance with the LFUCG'S Code of Ordinances, including but not limited to Chapter 16, all administrative regulations, rules, practices and procedures of the LFUCG Department of Public Works (i.e. Procedures Manuals for Infrastructure Development, Sanitary Sewers and Pump Stations), and the rates, rules and regulations of JSEWD and Jessamine County relating to operation and use of the sanitary sewer system, as may be amended from time to time, (all entities' regulations hereinafter referred to as the "Code") and subject to the terms and conditions of this Agreement, upon the completion of the construction of the sanitary sewer facilities by C4, JSEWD and LFUCG agree to provide connection of the sanitary sewer facilities installed by C4 to the existing facilities of LFUCG and JSEWD, if any, and to provide sanitary sewer utility service to the Property. C4 expressly agrees that the constructed sanitary sewer facilities shall be conveyed to JSEWD upon completion of construction and approval for acceptance. Although it is expressly acknowledged by C4 that

By 
Executive Director

OFFICE OF THE COMMISSIONER OF KENTUCKY DEPARTMENT OF REVENUE
EFFECTIVE 9/3/2008
PURSUANT TO 807 KAR 5.011
SESSION 1

conveyance and treatment by JSEWD and LFUCG. The Connection Fees shall be paid upon the issuance of letter of acceptance by JSEWD to C4 pursuant to Section 7(c) hereof related to the Property's sanitary sewer system or any part thereof.

4. **Additional Fees.** In addition to the Connection Fees heretofore referenced, C4 agrees to pay the full cost of sewer service to the Property, including, but not limited to the following additional charges and fees (the "Additional Fees"):

- (a) C4 shall have paid all reasonable charges assessed by JSEWD and LFUCG for plan review, construction inspection, testing, and other services of JSEWD and/or LFUCG in any way related to the sanitary sewer system.
- (b) C4 shall pay all sanitary sewer use fees ("Sewer User Fee") as provided in the Code. The Sewer User Fee is generally based on water consumption and C4 agrees to have the local water company which provides water to the Property, or any part thereof, provide duplicate billings to JSEWD, P.O. Box 731, Nicholasville, Kentucky 40356. JSEWD will calculate and bill C4 or the appropriate user for such Sewer User Fees, which shall be due and payable as set forth in the Code. All unpaid Sewer User Fees shall be subject to a late penalty and interest as set forth in the Code. Further, JSEWD shall be entitled to recover all its costs of collection of same, including reasonable attorney fees.
- (c) If required, C4 shall pay a surcharge for odor control chemicals on a monthly or less frequent basis as determined by JSEWD.
- (d) Pre-treatment permit fees/ Extra strength fees (when applicable) shall be paid to LFUCG in accordance with the Code, Section 16-46 and Schedule B of Section 16-49.

5. **Lien To Secure Payment of Connection Fees and Additional Fees.** JSEWD shall have a lien against the Property to secure the payment of all Connection Fees and Additional Fees, interest, penalties and the costs of collection, including reasonable attorney fees. The lien shall attach to the Property, or applicable part thereof, as the Connection Fees and/or Additional Fees become past due without necessity of filing any lien statement by JSEWD.

6. **Sanitary Sewer and Storm Water Management Installations.** To induce JSEWD and LFUCG to provide sanitary sewer service to the Property, C4 agrees to construct, according to the plans and specifications approved by JSEWD and LFUCG as reflected in Exhibit "3", all on site and off-site installations and facilities required by LFUCG and JSEWD, if any, to provide sanitary sewer service to the Property, including but not limited to all equipment, fixtures, pumps, lines, mains, manholes, lift stations, pumping stations, laterals, service connections, and to obtain appurtenances there to together with all real property, easements and rights of way as necessary. To also induce JSEWD and LFUCG

By 
Executive Director

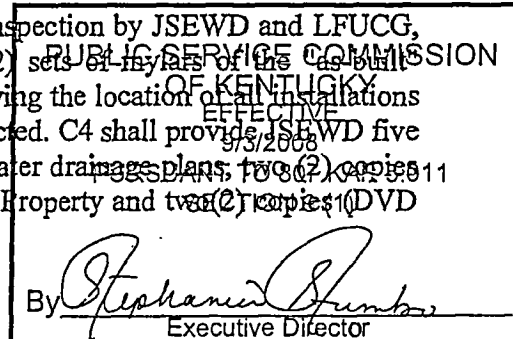
to provide sanitary sewer service to the Property, C4 shall size and construct, at its sole cost and expense, the proposed sanitary sewer facilities in a manner that provides the sanitary sewer capacity necessary to service all 1) developed/un-served upstream properties; and 2) undeveloped upstream properties in accordance with JSEWD'S Sanitary Sewer Master Plan, LFUCG Watershed, North Jessamine County, Kentucky, Jessamine-South Elkhorn Water District, March 2006. To further induce JSEWD and LFUCG to provide sanitary sewer service to the Property, C4 agrees to construct, according to the plans and specifications approved by Jessamine County, JSEWD and LFUCG as reflected in Exhibit "4", all on-site storm water facilities. The procedures for the design and construction of the storm water system shall comply with the same procedures outlined in numerical paragraph seven (7) herein for sanitary sewer systems with the exception that the applicable regulations for storm water management installations shall be substituted for those applicable to sanitary sewers. The foregoing improvements, both sanitary and storm water systems, may be referred to as the "Improvements" and Exhibits "3" and "4" may be referred to as the "Plans".

If the Improvements will require a pump station, the peak discharge into the JSEWD and/or LFUCG gravity system shall be specified by JSEWD. Design of the pump station shall include a meter capable of recording all flow discharging from the pump station. Odor control facilities shall be constructed as directed by JSEWD. If any pump stations are classified as "temporary" on the Plans, C4 will, at its own cost and secured by a bond or a letter of credit, connect to the gravity line as same becomes available and shall remove such "temporary" stations.

7. Procedures for the Property Sewer System. C4 agrees that the design and construction of the Improvements shall be subject to and in accordance with the Code and all administrative regulations, rules, practices and procedures of the LFUCG Department of Public Works, Jessamine County and JSEWD relating to the Improvements and the following requirements, whether or not these requirements are contained in the foregoing ordinances, regulations, administrative rules, practices and procedures:

- (a) During construction of the Improvements, Jessamine County, JSEWD and LFUCG shall have the right to inspect such installations, including but not limited to the materials, equipment, piping, and connections to determine compliance with the approved Plans and JSEWD shall also have the right to halt construction, if necessary, in the event of non-compliance by C4. C4 shall also provide JSEWD and LFUCG with periodic written certifications by C4's engineer that all construction is in full compliance with the approved Plans and any applicable permits or other requirements.
- (b) At least seven (7) days prior to final inspection by JSEWD and LFUCG, C4 shall provide JSEWD with two (2) sets of as-built plans, prepared by C4's engineer, showing the location of all installations related to the Improvements as constructed. C4 shall provide JSEWD five (5) sets of as-built paving and storm water drainage plans, two (2) copies of the recorded subdivision plat of the Property and two (2) copies of DVD

By  Executive Director



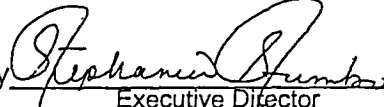
and inspection log) of a TV inspection of the sanitary sewer system. C4 shall also deliver to JSEWD, seven (7) days prior to final inspection, its engineer's certification and test results of the Improvements.

- (c) Upon completion of construction of the Improvements or any part thereof, C4's engineer shall deliver a signed certificate of completion to JSEWD certifying to JSEWD and LFUCG that the construction is completed, that the construction has been completed in accordance with all permits, approved Plans, and any applicable legal requirements, and as constructed it will function for the purpose for which it was designed. C4 shall provide proof satisfactory to JSEWD that all contractors, sub-contractors, materialmen and laborers have been paid in full. Upon receipt of all of the above, payment of all fees, a deed of conveyance of the sanitary sewer system, and final inspection by JSEWD of the Property sanitary sewer system, a letter of acceptance of the Property sanitary sewer system shall be delivered to C4 by JSEWD. No connection of any building located on the Property to the sanitary sewer system shall occur prior to the issuance of said letter of acceptance.

8. Use of Property Sanitary Sewer System. The use of the Property sanitary sewer system shall be subject to full compliance with the Code. All connections of any building constructed on the Property, or any part thereof, to the Property sanitary sewer system shall require a tap-on permit, inspection and approval by the JSEWD. Any connection of a building to the Property sanitary sewer system without a tap-on permit, inspection and approval may result in immediate disconnection by JSEWD.

9. Representation and Warranties of C4. In order to induce JSEWD and LFUCG to enter into this Agreement, C4 hereby represents and warrants to JSEWD and LFUCG as follows:

- (a) C4 is duly organized, validly existing, and in good standing under the laws of the Commonwealth of Kentucky. C4 has all requisite power and authority to enter into and perform the obligations contemplated by this Agreement. The execution and delivery of this Agreement and the performance of the obligations contemplated hereby have been duly authorized by all necessary action on the part of C4. This Agreement has been duly executed and delivered by C4 and constitutes the legal, valid and binding obligation of C4 enforceable against it in accordance with its terms.
- (b) The execution and delivery of this Agreement does not, and the performance of the obligations contemplated herein will not conflict with or result in any violation of, or default under any provision of, C4's organizational documents, or any other agreements to which C4 is a party.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE 9/3/2008
SECTION 9 (1)
By 
Executive Director

- (c) C4 covenants to obtain, any consent, approval or authorization of any third party required in connection with C4's execution and delivery of this Agreement or the performance by C4 of the obligations contemplated herein has been obtained.
- (d) C4 has good, valid and marketable title to the Property, free and clear of all liens, encumbrances, leases, restrictions, or other agreements except as referenced on the permitted exceptions attached hereto and incorporated herein as Exhibit "5".
- (e) C4 warrants that the Improvements will be constructed and installed in accordance with the Plans and that all materials, supplies and equipment incorporated into the work will be new and free from any and all defects, whether latent or patent, in workmanship. C4 agrees to repair and replace, at its own expense, all of the work which may prove to be defective, for a period of three(3) years after the date of acceptance by JSEWD, relative to the sanitary sewer system, and for a period of one (1) year after the date of C4's engineer's certification relative to the storm sewer system. Each of the time periods shall be secured by a warranty bond or letter of credit posted in favor of JSEWD by C4 which bond or letter of credit shall not be released without prior written approval of LFUCG.
- (f) There are no: (i) Hazardous Materials (as defined below) located on the Property or which have been released into the environment, or discharged, placed or disposed of at on or under the Property in violation of any. Environmental Laws (defined below); (ii) underground storage tanks which have been located on or under the Property.

The term "Hazardous Materials" means and includes, without limitation:

(i) Those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "solid waste" in any of the Environmental Laws (defined below);

(ii) Those substances listed in the U. S. Department of Transportation Table or amendments thereto (49 CFR 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and any amendments thereto);

(iii) Those other substances, materials and wastes which are or become classified as hazardous or toxic by any such law, regulation or ordinance; and

(iv) Any material, waste or substance which is any of the following: (A) asbestos-containing material; (B) polychlorinated

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9/3/2008
URSUANT TO KYR 5-11
RECAPTULATED

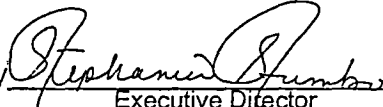
By Stephanie Brumby
Executive Director

biphenyls; (C) radon gas; (D) urea formaldehyde foam insulation; (E) petroleum, petroleum product or derivation thereof; (F) designated or listed as a "hazardous substance" pursuant to section 311 or section 307 of the Clean Water Act (U.S.C. section 1251 at set seq.); (G) explosive; or (H) radioactive.

- (v) The term "Environmental Laws" means all federal laws, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes related to the protection of the environment and government and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials in the rules, regulation, policies, guidelines, interpretations, permits, decisions, orders and directives or federal, state, and local governmental agencies and authorities with respect thereto.
- (g) C4 is designated as the party that is responsible for compliance with all erosion/sediment control measures(Best Management Practices) during construction.
- (h) That neither JSEWD, nor LFUCG have made any representation or guarantee that any sanitary sewer capacity has been reserved for the undeveloped portion of C4's property as described in Exhibit "1" or otherwise and that the capacity approved is for the area to be served as described in Exhibit "2".

10. Easement. C4 hereby grants to JSEWD, subject to the terms of this Agreement, the right to maintain and operate the sanitary sewer system. C4 agrees to provide a note on any subdivision plat related to the Property referencing dedication of the sanitary sewer system to JSEWD which reads that it is specifically subject to the terms and conditions of this Agreement. Upon request, C4 further agrees to execute and deliver a separate deed of easement or encroachment permit in a form reasonably acceptable to JSEWD, in its sole discretion, for all facilities, on-site and off-site, related to the portions of the sanitary sewer system, for which JSEWD will accept dedication and conveyance except for pump stations and access routes thereto, which, upon request, C4 agrees to convey in fee simple absolute to JSEWD by deed in a form acceptable to JSEWD, in its sole discretion. C4 hereby further agrees that the foregoing grant includes the right of ingress and egress to any part of the Property for the purpose of maintenance and operation of the sanitary sewer system. C4 and JSEWD agree to assign to LFUCG a right of access and ingress and egress to the sanitary sewer system and to the Property.

11. Mortgage Liens. Mortgagees, if any, holding prior liens on the Property, or any part thereof, shall be required to subordinate their rights to the rights of JSEWD under this Agreement and the easement dedication herein contemplated.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5.011
SECTION 9 (1)
By 
Executive Director

12. Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to either party shall be deemed to have been properly given or served by personal delivery or by depositing same in the United States mail, addressed to such party, postage paid and registered or certified with return receipt requested at the following address:

LFUCG
Department of Public Works
200 East Main Street
Lexington, Kentucky 40507

With copy to: LFUCG
Department of Law
200 East Main Street
Lexington, Kentucky 40507

Jessamine-South Elkhorn Water District
P.O. Box 731
Nicholasville, KY 40340-0731


With copy to: Bruce E. Smith, Esq.
201 South Main Street
Nicholasville, KY 40356

C2
C3

13. Indemnification. C4 shall indemnify and reimburse JSEWD and LFUCG for any and all claims, losses, liabilities, damages (including without limitation, fines, penalties, criminal or civil judgments and settlements), costs (including without limitation, court costs); and expenses (including without limitation, attorneys, engineers and accountants fees), (hereinafter "Loss" or "Losses") suffered or incurred by JSEWD and LFUCG, as a result of, or with respect to or arising from (a) any breach or inaccuracy of any representation or warranty of C4 herein; (b) any breach of or noncompliance by C4 with any covenant or agreement of C4 contained in this Agreement; (c) any negligent or wrongful act of the C4, its agents, employees, affiliates; and (d) Hazardous Materials or underground storage tanks that are located on or under the Property.

14. Compliance with Law. C4 agrees to comply with all federal, state and local laws, statutes, ordinances, regulations, and requirements. C4 agrees that the Property is subject to the Code and all regulations, administrative rules, practices and procedures of the JSEWD, LFUCG Department of Public Works and the JSEWD relating to sanitary and storm water management systems as set forth herein and agrees to fully comply with same.

8 of 10

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
By 
Executive Director

15. **Exhibit Incorporation by Reference.** Exhibits 1, 2, 3, 4 and 5 attached hereto are hereby incorporated by reference as if set out fully herein.

16. **Binding Effect, Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, transferees, tenants, heirs, and personal representatives. C4's rights hereunder shall not be assignable to any other person, except by a deed of conveyance whereby the Property, or a part thereof, is conveyed to such person.


17. **Cost and Attorney's Fees.** JSEWD and LFUCG shall be entitled to recover all costs and reasonable attorney fees incurred connected with the collection of Connection Fees or Additional Fees.

18. **Amendment/Waiver.** No modification, termination, assignment or amendment of this Agreement may be made, except by written agreement. Failure by either party to insist upon strict performance of any covenant, duty, agreement or condition in this Agreement or to exercise any right or remedy or a breach thereof shall not constitute a waiver of any breach or any such covenant, agreement, term or condition. Any party hereto, by notice and only by notice as provided in this Agreement, may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

19. **Covenants Running with Land.** C4, and its successors in title agree that all portions of the Property, whether designated as separate lots or otherwise, shall be required to comply with the terms of this Agreement and shall use the Improvements in accordance with the terms of this Agreement, which covenant shall be deemed a "Covenant Running with the Land", and reference shall be made to this Agreement, on any plat of the Property or any part thereof.

20. **Undertakings.** The parties will act reasonably when undertaking any submittal, review, approval, acceptance, or inspection required under this Agreement, provided, however, with respect to any review, approval, acceptance, or inspection of JSEWD or the LFUCG which would be required under the law had the Property been located entirely in Fayette County, the standard practice of the LFUCG shall be deemed reasonable. Further by review, approval, acceptance or inspection, the JSEWD and LFUCG shall not assume responsibility for design, construction or installation of the Improvements and shall in no way be deemed to waive any rights available to JSEWD and LFUCG related to defects, omissions or failures in design, construction or installation.

21. **Governing Law.** This Agreement has been entered into and shall be interpreted under and governed by the laws of the Commonwealth of Kentucky, Further, the parties agree that any litigation related to the terms of this Agreement shall be brought in the Jessamine Circuit Court, Nicholasville, Kentucky and the parties acknowledge that venue shall be proper in such court.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
9/3/2008
PURSUANT TO 807 KAR 5.011
SECTION 9 (1)
By 
Executive Director

If any court of proper jurisdiction finds or construes any provision contained herein to be unenforceable or invalid, then, and in that event, such finding or construction shall not invalidate the entire Agreement.

22. Captions. The captions of each section herein are for convenience only and shall not affect the construction hereof.

23. Multiple Copies. This Agreement may be signed in multiple copies, each of which shall be considered an original and entire document.

24. Entire Agreement. This Agreement contains the entire agreement and understanding between the parties hereto and incorporates and supercedes all oral agreements and understandings and it shall not be changed or supplemented unless done in a writing signed by all parties hereto.

IN WITNESS WHEREOF the parties have caused this document to be executed on the date and year first written.

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

BY: _____
ITS: MAYOR

C2

BY: _____

NAME: C7

ITS: C8

JESSAMINE-SOUTH ELKHORN WATER DISTRICT

BY: _____
ITS: CHAIRMAN

PUBLIC SERVICE COMMISSION
OF KENTUCKY

EFFECTIVE

9/3/2008

PURSUANT TO 807 KAR 5:011

SECTION 9 (1)

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By Stephanie Dumber
Executive Director

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4

Jessamine-South Elkhorn Water District

Information Request No. 5: Refer to Jessamine District's response to Staff's First Request, Item 1. The December 4, 2013 minutes indicate fees are being charged per the number of laterals for each building.

- a. How much is being charged per lateral?

Answer: See proposed cost justification attached to Staff's First Request, Item 9.

- b. What entity is charging the fees per lateral?

Answer: Jessamine - South Elkhorn Water District.

[Witness: L. Nicholas Strong]

Jessamine-South Elkhorn Water District

Information Request No. 6: Refer to Jessamine District's responses to Staff's First request, Item 5.

a. Identify by each water service provider the number of requests by Jessamine District to turnoff water service for 2011, 2012, and 2013.

Answer: City of Nicholasville – 2011 (446 requests/358 turnoffs); 2012 (392 requests/266 turnoffs); and 2013 (354 requests/264 turnoffs).

Jessamine County Water District No. 1 – 2011 (34 requests); 2012 (38 requests); and 2013 (32 requests).

b. Provide the documentation indicating the city of Nicholasville charges \$25.00 to turn off water service.

Answer: See attached billing from August of 2013 which is representative of all billings received from the City of Nicholasville.

[Witness: Diana Clark]

CITY OF NICHOLASVILLE

P.O. BOX 450
NICHOLASVILLE, KENTUCKY 40340-0450
859. 885-9473 fax 859. 885-9476

Invoice No. 5004005

INVOICE

Customer

Name Jessamine South Elkhorn Water District
Address P.O. Box 731
City Nicholasville State KY ZIP 40340
Attention Dianna Clark

Date 8/28/2013
Order No. _____
Rep _____
FOB _____

Qty	Description	Unit Price	TOTAL
16	Sewer Cutoffs AUG 26-27 2013	\$25.00	\$400.00

Payment Details

- Cash
 Check

SubTotal \$400.00

TOTAL \$400.00

MAKE CHECKS PAYABLE TO THE CITY OF NICHOLASVILLE
ATTENTION: SONYA LAND

Rw
2538
9-6-13

8/26/2013	44 COOL BREEZE	\$25.00
	550 COOL BREEZE	\$25.00
	45 LEEDEAN	\$25.00
	138 PINEGROVE	\$25.00
8/27/2013	907 CHRIS	\$25.00
	909 CHRIS	\$25.00
	1011 CLYDE DR	\$25.00
	346 ETHEL DR	\$25.00
	348 ETHEL DR	\$25.00
	376 HARTLEY DR	\$25.00
	380 HARTLEY	\$25.00
	161 LOIS LN	\$25.00
	195 LOIS LN	\$25.00
	26 MCDOWELL	\$25.00
	40 MCDOWELL	\$25.00
	65 MCDOWELL	\$25.00
	TOTAL	\$400.00

Jessamine-South Elkhorn Water District

Information Request No. 7: Refer to Jessamine District's response to staff's First Request, Item 7.

- a. Identify the location where most grease-trap inspections occur.

Answer: Brannon Crossing Shopping Center immediately off US 27 South in Jessamine County, Kentucky near the Fayette County line.

- b. Explain why most grease-trap inspections occur at this location.

Answer: There are more food service establishments located in this shopping center than anywhere else in the District's sanitation service territory.

[Witness: Richard Decker]

Jessamine-South Elkhorn Water District

Information Request No. 8: Refer to Jessamine District's response to staff's First Request, Item 8.

- a. Identify the location where most unauthorized-use inspections occur.

Answer: **Tates Creek Estates Trailer Park off Tates Creek Road in Jessamine County, Kentucky across the Tates Creek Road from Fayette County.**

- b. Explain why most unauthorized-use inspections occur at this location.

Answer: **Most inspections occur here because it has the highest number of mobile homes and there is constant and frequent movement in and out of the homes here.**

[Witness: Richard Decker]

10

Jessamine-South Elkhorn Water District

Information Request No. 9: Refer to Jessamine District's response to Staff's First Request, Item 13. The total proposed appears to be the sum of the set amount and proposed table, but the amount charged is different from the total.

a. Confirm that the amounts listed in the proposed table column are the amounts that Jessamine District believes it is contractually obligated to pay.

Answer: Confirmed.

b. State how the "set amount" was calculated.

Answer: The "Set Amount" was calculated per the attachment to First Request, Item 13, but the wrong amount (\$1,981.97) was listed. The "Set Amount" should have been reflected as \$2,003.15 per the attachment in answer to First Request, Item 9. o.

c. Show the calculations for the amounts charged.

Answer: The "Amounts Charged" are 1.5 times the typed table amounts reflected in the LFUCG fees for fiscal years 2010, 2011, 2012 and 2013.

[Witness: Diana Clark]

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Jessamine-South Elkhorn Water District

Information Request No. 10: Refer to Jessamine District's responses to Staff's First Request, Item 15.

a. Identify each type of non-recurring charges that Jessamine District charged but which was not in Jessamine District's tariff.

Answer: All of the non-recurring charges.

b. State when Jessamine District started charging for each non-recurring charge not listed in Jessamine District's tariff.

Answer:

Returned Check Service Charge	9/12/2008
Service Line Inspection Charge	6/11/2008
Service Termination Charge.....	10/18/2006
Grease Trap Inspection Charge	6/13/2008
Unauthorized Use of Service Investigation Charge.....	12/9/2010
Service Charge for Damage to Facilities	NONE
Tap-on Fee	3/3/2008

[Witness: Diana Clark]

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Jessamine-South Elkhorn Water District

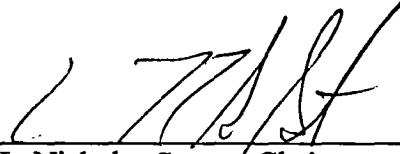
Information Request No. 11: Refer to Jessamine District's response to Staff's First Request, Item 18. Handwritten numbers appear on the table of fees. Explain what the numbers represent.

Answer: The handwritten numbers are those inscribed by the District's personnel and are not part of the table published by LFUCG. The numbers represent 1.5 x the typed table number.

[Witness: Diana Clark]

CERTIFICATION

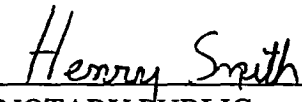
Comes L. Nicholas Strong, Chairman of the Jessamine-South Elkhorn Water District (“District”) and after first being duly sworn states that he supervised the preparation of this response on behalf of the District and that the foregoing responses are true and accurate to his knowledge, information and belief after a reasonable inquiry.




L. Nicholas Strong, Chairman

COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE, SCT...

Acknowledged, subscribed and sworn to me, a Notary Public in and before said County and State by L. Nicholas Strong, Chairman, this the 28th day of April, 2014.

 498328
NOTARY PUBLIC NO.

Respectfully Submitted,



Bruce E. Smith, Esq.
201 South Main Street
Nicholasville, Kentucky 40356
T: (859) 885-3393/F: (859) 885-1152
bruce@smithlawoffice.net
COUNSEL FOR DISTRICT

