

# SHADOW WOOD SUBDIVISION SEWER SERVICE

A JOINT VENTURE OF

FOURTH AVENUE CORPORATION AND LONG CORPORATION

POST OFFICE BOX 1267  
PROSPECT, KENTUCKY 40059

CLAY W. LONG, PRESIDENT

PHONE (502) 241-4849

September 1, 2004

Mr. Thomas Dorman  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

Case 2004-00364

RECEIVED

SEP 13 2004

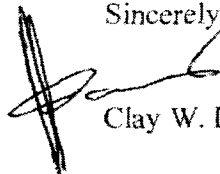
PUBLIC SERVICE  
COMMISSION

Re: Shadow Wood Subdivision Sewer Service, a Joint Venture of Fourth Avenue Corporation and Long Corporation ("Shadow Wood")  
Joint Application for Approval of Transfer

Dear Mr. Dorman,

Please find the enclosed 11 copies of the above referenced Joint Application for Approval of Transfer of the Shadow Wood Subdivision Sewer Service ("Shadow Wood") to Shadow Wood Waste Environmental. Shadow Wood requests that the Commission accept these for filing pursuant to the alternative filing procedures for small utilities. If accepted, please return a file-stamped copy to our office.

Sincerely,



Clay W. Long, President

CWL: Enclosures

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF:

THE JOINT APPLICATION OF SHADOW WOOD  
SUBDIVISION SEWER SERVICE AND SHADOW  
WOOD WASTE ENVIRONMENTAL FOR APPROVAL  
OF THE TRANSFER OF WASTE WATER TREATMENT  
FACILITIES PURSUANT TO PURCHASE AGREEMENTS  
BETWEEN THE PARTIES

CASE NO. 2004-00364

**JOINT APPLICATION FOR APPROVAL OF TRANSFER**

Shadow Wood Subdivision Sewer Service ("Shadow Wood") and Shadow Wood Waste Environmental, LLC ("Shadow Wood, LLC") hereby petition the Public Service Commission ("Commission") for approval, pursuant to KRS 278.020(4), of the transfer of the wastewater treatment assets and business of Shadow Wood to Shadow Wood, LLC, in accordance with the Purchase Agreement ("Agreement"), a copy of which is attached hereto as Exhibit A. In support of their application, Shadow Wood and Shadow Wood, LLC state the following:

1. Shadow Wood, the Seller under the Agreement, is a joint venture of two Kentucky Corporations (Fourth Avenue Corporation and Long Corporation) in good standing, with its principal place of business at Post Office Box 1267, Prospect, Kentucky, 40059. A copy of the Articles of Incorporation of the joint venture partners are attached hereto as Exhibit B. Shadow Wood is a utility subject to Commission jurisdiction under KRS 278.010(3)(f). Clay W. Long is the President and majority shareholder of the joint venture, and has been duly authorized to execute this joint application on behalf of the joint venture. A copy of each of the resolutions of the two Shadow Wood joint venture partners authorizing the purchase to Shadow Wood, LLC is attached hereto as Exhibit C.

2. Shadow Wood, LLC is the purchaser under the Agreement, and its address is 13404 Creekview Road, Prospect, Kentucky, 40059. Shadow Wood, LLC is a limited liability corporation formed by the partners of Premier Land Company for the purpose of acquiring and operating Shadow Woods treatment facility. Shadow Wood, LLC intends to re-organize the financial and operational aspects of the treatment facility to better serve the customer base and add new customers. Premier Land, its backer, pledges the financial and administrative resources it has to accomplish this. Premier Land has considerable experience in Real Estate Development. Juliet Tinnell is the president of Shadow Wood, LLC, and has been duly authorized to execute this joint application on behalf of Shadow Wood, LLC. A copy of the resolution of the Shadow Wood, LLC Board of Directors authorizing the acquisition and transfer is attached hereto as Exhibit D. A copy of the financial statements of Premier Land are attached as Exhibit E. (See EXHIBIT G).

3. Under the Agreement, Shadow Wood will sell to Shadow Wood, LLC all of the assets of Shadow Wood used in the operation of wastewater collection and treatment systems located in Prospect, Kentucky ("Sewer Business"). The assets purchased by Shadow Wood, LLC are described more fully in the Agreement, but include the "Shadow Wood" wastewater treatment plant, the wastewater collection system served by the Shadow Wood wastewater treatment plant and the pump stations related thereto. Excluded from the purchase are:

- (i) Cash and cash equivalents; and,
- (ii) Customer accounts receivable as of the date of the closing.

All liabilities of Shadow Wood shall be concluded at closing so that Shadow Wood, LLC will not assume any liabilities or obligations of Shadow Wood other than certain contractual obligations specified in the Agreement and the obligation to provide utility services in connection with the operation of the sewer business after the closing. The closing under the Agreement will occur within twenty (20) days after receipt of the approval of the Commission. Shadow Wood shall begin the process of dissolving the joint venture immediately upon closing. Shadow Wood subcontracts the operational aspects to the treatment facility to Sanders Sales and Service (namely Joe Sanders, a licensed treatment plant operator) and upon transfer, all operations will continue under this arrangement uninterrupted.

4. The Shadow Wood wastewater treatment plant is an above ground package sewage treatment plant. It was acquired in the late 1970's and currently serves approximately 284 customers in Prospect, Kentucky. The average daily treatment capacity of the Shadow Wood wastewater treatment plant is 8,500 gallons per day. The plant is in good condition and consistently meets State water quality standards. Residences located in Shadow Wood Subdivision, the Harbor at Harrods Creek, River Creek Subdivision, and the Harbortown Condominium Complex as well as the Captain's Quarters Marina and the Captain's Quarters Restaurant are served by the Shadow Wood wastewater treatment plant. A copy of the December 31, 2003, Annual Report of Shadow Wood is attached hereto as Exhibit F.

5. Shadow Wood, LLC has the requisite financial, technical and managerial abilities to provide reasonable service to the wastewater customers of Shadow Wood. Attached hereto as Exhibit G is a copy of the financial statements of Premier Land for the fiscal year ending June 30, 2003. Premier Land pledges to use its financial resources to fund needed capital improvements for the treatment plant. A notarized affidavit from the partners of Premier Land to this effect are attached as Exhibit H.

Shadow Wood has experienced considerable financial difficulties and no longer wishes to own or operate this treatment facility. There is repair and maintenance involved in keeping the facility in compliance with the regulations and requirements of the Division of Water, Cabinet for Natural Resources and Environmental Protection, Commonwealth of Kentucky.

Shadow Wood, LLC, however, will have the capital and human resources to bring the facility to a higher level of service for the customer base. The planned addition of new customers will make the facility enjoy a greater economy of scale and increased financial strength.

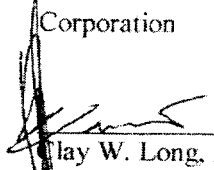
6. The proposed transfer of the sewer business by Shadow Wood to Shadow Wood, LLC will be accomplished in accordance with law, for a proper purpose and, consistent with the public interest: On or before closing, Shadow Wood, LLC will have all necessary permits for the operation of the Shadow Wood wastewater facility. The public interest would be served by the transfer of the sewer business to Shadow Wood, LLC.

7. Shadow Wood, LLC is concurrently filing a Notice of Adoption as described in 807 KAR 5:011 attached as Exhibit H.

WHEREFORE, the undersigned applicants respectfully request the Commission to issue an Order finding that Shadow Wood, LLC has the financial, technical, and managerial abilities to provide reasonable service to the wastewater customers of Shadow Wood, that the proposed transaction is in accordance with law, is for a proper purpose, and is consistent with the public interest; and, that the proposed transfer of the sewer business by Shadow Wood to Shadow Wood, LLC is authorized and approved.

Respectfully submitted,

Shadow Wood Subdivision Sewer Service, a joint  
venture of Fourth Avenue Corporation and Long  
Corporation

  
Clay W. Long, President

August 26, 2004  
Date

Shadow Wood Waste Environmental, LLC

  
Juliet Tinnel, President

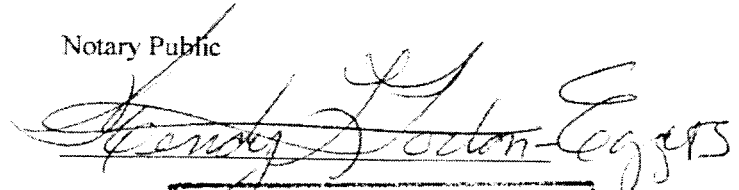
8/29/04  
Date

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF JEFFERSON )

Signed and sworn to before me, Clay W. Long as President of Shadow Wood Subdivision Sewer Service, this the 26<sup>th</sup> day of Aug, 2004.

My commission expires: 1-30-05

Notary Public





COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF JEFFERSON )

27<sup>th</sup> Signed and sworn to before me by Julia Tinell as President of Shadow Wood, LLC, this the day of Aug, 2004

My commission expires: 1-20-2007

Notary Public



EXHIBIT A

**AGREEMENT FOR PURCHASE AND  
SALE OF JOINT VENTURE ASSETS**

This **AGREEMENT FOR PURCHASE AND SALE OF JOINT VENTURE ASSETS** ("**Agreement**") is effective as of November 1, 2004, by and between the **Shadow Wood Waste Environmental, LLC**, a Kentucky Limited Liability Company, whose address is 13404 Creekview Road Prospect, KY 40059, ("**Shadow Wood LLC**", or "**Purchaser**"), and a) **Fourth Avenue Corporation**, a Kentucky Corporation, whose address is P.O. Box 1267, Prospect, KY 40059; and b) **Long Corporation**, a Kentucky Corporation, whose address is P.O. Box 1267, Prospect, KY 40059 (singly or collectively the "**Seller**").

**RECITALS**

Shadow Wood Subdivision Sewer Service (the "**Joint Venture**") is a joint venture operated as a General Partnership by those two Kentucky Corporations, Fourth Avenue Corporation and Long Corporation, which comprise the Seller.

The Joint Venture is the owner of those wastewater collection, conveyance and treatment facilities, assets pertaining thereto, and real property on which such wastewater collection, conveyance and treatment facilities are located, all as more particularly identified on **EXHIBIT A** attached hereto (collectively the "**Wastewater System**"), that serves customers in the cities of Prospect and Harrods Creek, Commonwealth of Kentucky.

The Seller owns 100% of the assets of and interest in Joint Venture.

Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, all of Seller's Interest in and all of the assets of the Joint Venture upon the terms and subject to the conditions set forth in this Agreement.

After such sale, Purchaser shall own 100% of the assets of and interest in the Joint Venture; Seller shall own 0% of the assets of and interest in the Joint Venture; and except as provided otherwise by this Agreement the Purchaser shall thereafter be solely responsible for future construction, operation, maintenance and any reconstruction of sanitary sewers, pump stations, force mains, treatment facilities and equipment, structures or materials relating to the development and operation of the Wastewater System.

**AGREEMENT**

In consideration of the foregoing and the respective representations, warranties, covenants, and agreements contained in this Agreement, and intending to be legally bound, the parties to this Agreement agree as follows:

## ARTICLE I-- DEFINITIONS

As used in this Agreement, the following terms have the meanings indicated below:

Section 1.01. "Best Efforts" means the efforts that a prudent Person desirous of achieving a result would use in similar circumstances to ensure that such result is achieved in as prompt and timely a manner as reasonably possible.

Section 1.02. "Breach" means, with respect to a representation, warranty, covenant, obligation, or other provision of this Agreement or any instrument delivered pursuant to this Agreement (a) any material inaccuracy in or material breach of or any failure to perform or comply with, such representation, warranty, covenant, obligation, or other provision, or b) any claim by any Person or other occurrence or circumstance that is or was materially inconsistent with such representation, warranty, covenant, obligation or other provision, and the term "Breach" means any such material inaccuracy, breach, failure, claim, occurrence, or circumstance.

Section 1.03. "Closing" has the meaning specified in Section 4.01.

Section 1.04. "Closing Date" means the date and time as of which the Closing actually takes place.

Section 1.05. "Code" means the Internal Revenue Code of 1986, as amended, or any successor law, and the regulations promulgated thereunder.

Section 1.06. "Consent" means any approval, consent, ratification, waiver, or other authorization (including any Governmental Authorization).

Section 1.07. "Contemplated Transactions" means all of the transactions contemplated by this Agreement, including:

- (a) the sale of all of Seller's interest in and assets of the Joint Venture to Purchaser;
  - (b) the execution, delivery, and performance of the Related Documents;
  - (c) the performance by Seller of its covenants and obligations under this Agreement;
- and
- (d) the Purchaser's acquisition of all of Seller's interest in and assets of the Joint Venture and the Seller's simultaneous discontinuance of its Joint Venture activities.

Section 1.08. "Contract" means any agreement, contract, obligation, promise, or undertaking (whether written or oral and whether express or implied) that is legally binding.

Section 1.09. "Damages" has the meaning specified in Section 12.02.



Section 1.10. "Encumbrance" means any charge, claim, community property interest, condition, equitable interest, lien, option, pledge, security interest, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership.

Section 1.11. "Environment" means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins, and wetlands); groundwaters, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life, and any other environmental medium or natural resource.

Section 1.12. "Environmental, Health, and Safety Liabilities" means any cost, damages, expense, liability, obligation, or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to:

(a) any environmental, health, or safety matters or conditions (including on-site or offsite contamination, occupational safety and health, and regulation of chemical substances or products);

(b) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands and response, investigative, remedial, or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law;

(c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any investigation, cleanup, removal, containment, or other remediation or response actions ("Cleanup") required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Body or any other Person) and for any natural resource damages; or

(d) any other compliance, corrective, investigative, or remedial measures required under Environmental Law or Occupational Safety and Health Law.

The terms "removal," "remedial," and "response action," include the types of activities covered by the United States Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq., as amended ("CERCLA").

Section 1.13. "Environmental Law" means any Legal Requirement that requires or relates to:

(a) advising appropriate authorities, employees, and the public of intended or actual releases of pollutants or hazardous substances or materials, violations of discharge limits, or other prohibitions and of the commencements of activities, such as resource extraction or construction, that could have significant impact on the Environment,

(b) preventing or reducing to acceptable levels the release of pollutants or hazardous substances materials into the Environment;

(c) reducing the quantities, preventing the release, or minimizing the hazardous characteristics of wastes that are generated; assuring that products are designed, formulated, packaged and used so that they do not present unreasonable risks to human health or the Environment when used or disposed of, protecting resources, species, or ecological amenities; reducing to acceptable levels the risks inherent in the transportation of hazardous substances, pollutants, oil, or other potentially harmful substances;

(d) cleaning up pollutants that have been released, preventing the threat of release, or paying the costs of such clean up or prevention;

(e) making responsible parties pay private parties, or groups of them, for damages done to their health or the Environment, or permitting self-appointed representatives of the public interest to recover for injuries done to public assets; or any Kentucky or federal law, statute or regulation relating to the ownership or operation of the Wastewater System.

Section 1.14. "Facilities" means any real property, leaseholds, or other interests currently or formerly owned or operated by a) the Seller for the use of or by the Joint Venture, or b) by the Joint Venture; and any buildings, plants, structures, or equipment (including motor vehicles, tank cars, and rolling stock) currently or formerly owned or operated by a) the Seller for the use of or by the Joint Venture, or b) by the Joint Venture.

Section 1.15. "Governmental Authorization" means any approval, consent, license, permit, waiver, or other authorization issued, granted, given, or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement.

Section 1.16. "Governmental Body" means any:

(a) federal, state, county, city, town, village, district, or other governmental jurisdiction of any nature;

(b) federal, state, local, municipal, . or other government;

(c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal);

(d) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

Section 1.17. "Hazardous Activity" means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, release, storage, transfer, transportation, treatment, or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about, or from the Facilities or any part thereof into the Environment, and any other act, business, operation, or thing that increases the danger, or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the Facilities, or

that may affect the value of the Facilities or the Joint Venture.

Section 1.18. "Hazardous Materials" means any waste or other substance that is listed, defined, designated, or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor, and asbestos or asbestos-containing materials.

Section 1.19. "Interest" means the Seller's 100% ownership of the assets of the Joint Venture as specified in **EXHIBIT A** of this Agreement.

Section 1.20. "IRS" means the United States Internal Revenue Service or any successor agency, and, to the extent relevant, the United States Department of the Treasury.

Section 1.21. "Knowledge" means, with respect to an individual, that:

- (a) Such individual is actually aware of such fact or other matter; or
- (b) A prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonably comprehensive investigation concerning the existence of such fact or other matter.

A Person (other than an individual) will be deemed to have "Knowledge" of a particular fact or other matter if any individual who is serving, or who has at any time served, as a director, officer, partner, executor, or trustee of such Person (or in any similar capacity) has, or at any time had, knowledge of such fact or other matter.

Section 1.22. "Legal Requirement" means any federal, state, local, municipal, or other administrative order, constitution, law, ordinance, principle of common law, regulation, or statute, including specifically any approval, order or authorization required by the Kentucky Public Service Commission ("PSC"). Purchaser, with the assistance of Seller, agrees to prepare and submit to the PSC those applications and related documents which Purchaser, in its sole discretion, is willing to submit to obtain approval of the sale of the Wastewater System contemplated by this Agreement. . It is expressly agreed that the sale of the Wastewater System herein is contingent upon the approval of the PSC.

Section 1.23. "Material Interest" means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least 10% of the outstanding voting power of a Person or equity securities or other equity interests representing at least 10% of the outstanding equity securities or equity interests in a Person.

Section 1.24. "Occupational Safety and Health Law"--any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health

hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

Section 1.25. "Order" means any award, decision, injunction, judgment, order, ruling, subpoena, or verdict entered, issued, made, or rendered by any court, administrative agency, or other Governmental Body or by any arbitrator.

Section 1.26. "Ordinary Course of Business" means, with respect to an action taken by a Person:

(a) Such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person;

(b) Such action is not required to be authorized by the board of directors of such Person (or by any Person or group of Persons exercising simi far authority); and

(c) Such action is similar in nature and magnitude to actions customarily taken, without any authorization by the board of directors (or by any Person or group of Persons exercising similar authority), in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as such Person.

Section 1.27. "Organizational Documents" means (a) the articles or certificate of incorporation and the bylaws of a corporation; (b) the partnership agreement and any statement of partnership of a general or limited partnership; (c) the limited partnership agreement and the certificate of limited partnership of a limited partnership; (d) the articles or certificate of organization and the operating agreement, if any, of a limited liability company; (e) any charter or similar document adopted or filed in connection with the creation, formation, or organization of a Person; and (f) any amendment to any of the foregoing.

Section 1.28. "Person" means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, labor union, or other entity or Governmental Body.

Section 1.29. "Proceeding" means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Body or arbitrator, except that Purchaser, with the assistance of Seller, agrees to prepare and submit to the Kentucky Public Service Commission ("PSC") such application and documents necessary to obtain approval of the sale of the Wastewater System contemplated by this Agreement. It is expressly agreed that the sale of the Wastewater System herein is contingent upon the approval of the PSC.

Section 1.30. "Related Documents" means General Warranty Deed, attached Exhibits, Bill of Sale, and Form UCC-1.

Section 1.31. "Related Person" means;

(a) with respect to a particular individual, each other member of such individual's Family;

(b) with respect to a specified Person other than an individual, any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person; or

(c) each Person that serves as a director, officer, partner, executor, or trustee of such specified Person (or in a similar capacity).

For purposes of this definition, (a) the "Family" of an individual includes (i) the individual, (ii) the individual's spouse, (iii) any other natural person who is related to the individual or the individual's spouse within the second degree, and (iv) any other natural person who resides with such individual.

Section 1.32. "Release" means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping, or other releasing into the Environment, whether intentional or unintentional.

Section 1.33. "Representative" means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

Section 1.34. "Subsidiary" means with respect to any Person (the "Owner"), any corporation or other Person of which securities or other interests having the power to elect a majority of that corporation's or other Person's board of directors or similar governing body, or otherwise having the power to direct the business and policies of that corporation or other Person (other than securities or other interests having such power only upon the happening of a contingency that has not occurred) are held by the Owner or one or more of its Subsidiaries.

Section 1.35. "Tax Return" means any return (including any information return), report, statement, schedule, notice, form, or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection, or payment of any Tax or in connection with the administration, implementation, or enforcement of or compliance with any Legal Requirement relating to any Tax.

Section 1.36. "Threat of Release" means a substantial likelihood of a Release that may require action in order to prevent or mitigate damage to the Environment that may result from such Release.

Section 1.37. "Threatened" means a claim, Proceeding, dispute, action, or other matter will be deemed to have been "Threatened" if any demand or statement has been made (orally or in writing) or any notice has been given (orally or in writing), or if any other event has occurred or

any other circumstances exist, that would lead a prudent Person to conclude that such a claim, Proceeding, dispute, action, or other matter is likely to be asserted, commenced, taken, or otherwise pursued in the future.

## ARTICLE II-- SALE AND PURCHASE

Section 2.01. Transfer of Interest. Subject to the terms and conditions herein set forth, at the Closing Seller will sell and transfer the Interest to Purchaser and Purchaser will purchase from Seller the Interest.

## ARTICLE III-- PURCHASE PRICE

Section 3.01. Purchase Price. The purchase price (the "Purchase Price") for the Interest shall be \$200,000.00) and all "Excepted Receivables". The parties further agree that

(a) Any Joint Venture indebtedness as of the Closing date shall be paid from proceeds at Closing.

(b) Any real or personal property taxes, pertaining to any portion of the Interest, due and payable for 2004 shall be pro-rated and paid as of the date of Closing.

(c) Any "Customer Receivables" for service provided by the Joint Venture prior to the date of Closing and collected by Purchaser shall remain with Purchaser ~~unless~~ <sup>5/27</sup> ~~for a future period.~~ Purchaser shall be under no obligation to collect past receivables, but may collect any outstanding amounts. Customer Receivables will be prorated for the number of days in the month based on the Closing Date.

(d) "Excepted Receivables" are receivables to be assigned or re-imbursed to Seller and will survive the closing until collected. These include the uncollected amounts from the Harbortown Condominium Complex for the year 2002 and 2003 and the remainder of uncollected amounts for the legal expenses in case 2001-423. These amounts are now being collected by the Louisville Water Company, as billing agent for the Seller, under the title "Shadow Wood Surcharge".

## ARTICLE IV-- CLOSING

Section 4.01. Closing. The purchase and sale (the "Closing") provided for in this Agreement will take place at the offices of Weber and Rose, PSC, 400 W. Market Street, Suite 2400, Louisville,

KY 40202 within thirty (30) days of the latter of a) the date of the order from the Public Service Commission approving the transfer; b) Seller's completion, to Purchaser's sole satisfaction, of all contingencies to close; or c) at such other time and place as the parties agree.

Section 4.02. Closing Obligations. At the Closing:

(a) Seller will deliver to Purchaser:

(i) Resolutions by the Seller authorizing the sale of the interest.

(ii) Legal title and physical possession to all assets of the Joint Venture.

(iii) The full, complete, and accurate financial records of the corporations comprising the Seller insofar as they pertain to the Seller's operation of the Joint Venture, and of the Joint Venture if such records are separately maintained, including but not limited to all books of account, record books, and records of Interest ownership in the Seller and/or Joint Venture.

(iv) A certificate executed by Seller representing and warranting to Purchaser that each of Seller's representations and warranties in this Agreement was accurate in all material respects as of the date of this Agreement and is accurate in all material respects as of the Closing Date as if made on the Closing Date.

(v) A certificate from the Kentucky Revenue Cabinet dated not more than thirty (30) days prior to the Closing Date which verifies that neither the Joint Venture nor the Seller owes any delinquent taxes, assessments or other obligations to the Commonwealth of Kentucky which could in any way adversely affect the value of the Interest transferred herein.

(b) Purchaser will deliver to Seller:

(i) Payment of fifty percent (50%) of the Purchase Price.

(ii) Purchaser's promissory note obligating Purchaser to pay the remaining fifty percent (50%) of the Purchase Price, with the final payment of being due and owing on or before one year from the interest being transferred.

(iii) A certificate executed by Purchaser to the effect that, except as otherwise stated in such certificate, each of Purchaser's representations and warranties in this Agreement was accurate in all material respects as of the date of this Agreement and is accurate in all material respects as of the Closing Date as if made on the Closing Date.

**ARTICLE V--  
REPRESENTATIONS AND WARRANTIES OF SELLER**

Section 5.01. Organization Power. The Seller is comprised of two for-profit corporations duly organized and in existence under the laws of the Commonwealth of Kentucky; all reports which

either corporation comprising Seller is required to file with the Kentucky Secretary of State have been filed; and no articles of dissolution pertaining to either corporation comprising the Seller have been filed with the Kentucky Secretary of State. Neither the Seller nor the Joint Venture is required to be qualified as a foreign corporation in any other state or jurisdiction. The Corporations comprising the Seller, operating as a general partnership Joint Venture, have all requisite power and authority to own, lease, and operate the assets used in the conduct of the business of the Joint Venture and to carry on the business of the Joint Venture as it is now being conducted and Seller does not know anything to the contrary. Each corporation comprising the Seller has delivered to Purchaser true, complete, and accurate copies of their separate Articles of Incorporation and Bylaws as presently in effect. The Corporations comprising the Seller warrant that there is no written Joint Venture Agreement identifying the terms and conditions under which they operate the Joint Venture.

Section 5.02. Authority, No Conflict. This Agreement constitutes the legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms. Upon the execution and delivery by Seller of Documents to which Seller is a party (collectively, the "Seller's Closing Documents"), the Seller's Closing Documents will constitute the legal, valid, and binding obligations of Seller, enforceable against Seller in accordance with their respective terms. Seller has the absolute and unrestricted right, power, authority, and capacity, acting through the corporations which comprise Seller to execute and deliver this Agreement and the Seller's Closing Documents and to perform his obligations under this Agreement and the Seller's Closing Documents.

Section 5.03. Capitalization. Seller is and will be on the Closing Date the record and beneficial owner and holder of the Interest, free and clear of all Encumbrances. Seller owns 100% of the total Interest in the Joint Venture. Any assets or Interest held in the name of the Joint Venture are in fact owned equally by the corporations that comprise the Seller. There are no Contracts relating to the issuance, sale, or transfer of any equity securities or other securities of either corporation comprising the Seller or of the Joint Venture.

Section 5.04. Financial Statements. The financial records of the corporations comprising the Seller, and of the Joint Venture if such are separately maintained, all of which have been made available to Purchaser, are complete and correct. At the Closing, all of those financial records will be delivered to the possession of the Purchaser.

Section 5.05. Books and Records. The books of account, record books, record of Interest, and other records of the Joint Venture, all of which have been made available to Purchaser, are complete and correct. At the Closing, all of those books and records will be in the possession of the Company.

Section 5.06. No Undisclosed Liabilities. Seller is not aware of any Seller or Joint Venture liabilities or obligations of any nature (whether known or unknown and whether absolute, accrued, contingent, or otherwise) except for current liabilities incurred in the Ordinary Course of Business which are known to Purchaser.

Section 5.07. Compliance with Legal Requirements: Governmental Authorizations.



(a) Seller believes the following to be true:

(i) The Seller's activities pertaining to the Joint Venture, and the Joint Venture, are in full compliance with each Legal Requirement that is or was applicable to the Seller or the Joint Venture or to the conduct or operation of the Joint Venture business or the ownership, use or transfer of any of the assets which comprise the Joint Venture.

(ii) No event has occurred or circumstance exists that (with or without notice or lapse of time) (A) may constitute or result in a violation by the Seller or the Joint Venture of, or a failure on the part of the Seller or the Joint Venture to comply with, any Legal Requirement, or (B) may give rise to any obligation on the part of the Seller or the Joint Venture to undertake, or to bear all or any portion of the cost of any remedial action of any nature.

(iii) Neither the Seller nor the Joint Venture has received any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding (A) any actual, alleged, possible, or potential violation of, or failure to comply with, any Legal Requirement, or (B) any actual, alleged, possible, or potential obligation on the part of the Seller or the Joint Venture Company to undertake, or to bear all or any portion of the cost of, any remedial action of any nature.

Section 5.08. Legal Proceedings, Orders.

(a) Seller does not know of any existing or pending Proceeding that:

(i) Has been commenced by or against the Seller or the Joint Venture or that otherwise relates to or may affect the business of, or any of the assets owned or used by, the Joint Venture or the Seller in its operation of the Joint Venture.

(ii) that challenges, or that may have the effect of preventing, delaying, making illegal, or otherwise interfering with, any of the Contemplated Transactions.

To the Knowledge of Seller: (1) no such Proceeding has been Threatened, and (2) no event has occurred or circumstance exists that may give rise to or serve as a basis for the commencement of any such Proceeding. Seller has delivered to Purchaser copies of all pleadings, correspondence, and other documents relating to each Proceeding known to Seller.

Section 5.09. Environmental Matters. Seller warrants that:

(a) The Joint Venture is in full compliance with, and has not been and is not in violation of or liable under, any Environmental Law. Neither Seller nor the Joint Venture has any basis to expect, any actual or threatened order, notice, or other communication from (i) any Governmental Body or private citizen acting in the public interest, or (ii) the current or prior owner or operator of any Facilities, of any actual or potential violation or failure to comply with any Environmental Law, or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health, and Safety liabilities with respect to any of the Facilities or any other

properties or assets (whether real, personal, or mixed) in which the Seller in its operation of the Joint Venture, or the Joint Venture, has had an interest, or with respect to any property or Facility at or to which Hazardous Materials were generated, manufactured, refined, transferred, used, or processed by the Joint Venture, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled, or received.

(b) There are no pending or, to the Knowledge of Seller and the Joint Venture, Threatened claims, Encumbrances, or other restrictions of any nature, resulting from any Environmental, Health, and Safety Liabilities or arising under or pursuant to any Environmental Law, with respect to or affecting any of the Facilities or any other properties and assets (whether real, personal, or mixed) in which the Seller through its operation of the Joint Venture, or the Joint Venture, has or had an interest.

(c) Neither Seller nor the Joint Venture has any basis to expect, nor has any of them or any other Person for whose conduct they are or may be held responsible received, any citation, directive, inquiry, notice, Order, summons, warning, or other communication that relates to Hazardous Activity, Hazardous Materials, or any alleged, actual, or potential violation or failure to comply with any Environmental Law, or of any alleged, actual, or potential obligation to undertake or bear the cost of any Environmental, Health, and Safety Liabilities with respect to any of the Facilities or any other properties or assets (whether real, personal, or mixed) in which the Seller through its operation of the Joint Venture, or the Joint Venture, had an interest, or with respect to any property or facility to which Hazardous Materials generated, manufactured, refined, transferred, imported, used, or processed by the Joint Venture have been transported, treated, stored, handled, transferred, disposed, recycled, or received.

(d) Neither Seller nor the Joint Venture, or any other Person for whose conduct they are or may be held responsible, has any Environmental, Health, and Safety Liabilities with respect to the Facilities or at any property geologically or hydrologically adjoining the Facilities.

(e) Except chlorine tanks at the plant, there are no Hazardous Materials present on or in the Environment at the Facilities or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Facilities or such adjoining property, or incorporated into any structure therein or thereon. Neither Seller nor the Joint Venture has permitted or conducted, or is aware of any Hazardous Activity conducted with respect to the Facilities or any other properties or assets (whether real, personal, or mixed) in which the Seller through its operation of the Joint Venture, or the Joint Venture, has or had an interest except in full compliance with all applicable Environmental Laws.

(f) There has been no Release or, to the Knowledge of Seller or the Joint Venture, Threat of Release, of any Hazardous Materials at or from the Facilities or at any other locations where any Hazardous Materials were generated, manufactured, refined, transferred, produced, imported, used, or processed from or by the Facilities, or from or by any other properties and assets (whether real, personal, or mixed) in which the Seller through its operation of the Joint

Venture, or the Joint Venture, has or had an interest.

(g) Seller has delivered to Purchaser true and complete copies and results of any reports, studies, analyses, tests, or monitoring possessed or initiated by Seller or the Joint Venture pertaining to Hazardous Materials or Hazardous Activities in, on, or under the Facilities, or concerning compliance by the Seller or the Joint Venture with Environmental Laws.

Section 5.10. Disclosure.

(a) No representation or warranty of Seller in this Agreement, including any schedule attached to this Agreement, omits to state a material fact necessary to make the statements herein or therein, in light of the circumstances in which they were made, not misleading.

(b) No notice given pursuant to Section 7.05 will contain any untrue statement or omit to state a material fact necessary to make the statements therein or in this Agreement, in light of the circumstances in which they were made, not misleading.

(c) There is no fact known to Seller that has specific application to Seller or the Joint Venture (other than general economic or industry conditions) and that materially adversely affects or, as far as Seller can reasonably foresee, materially threatens, the assets, business, prospects, financial condition, or results of operations of the Joint Venture that has not been set forth in this Agreement, including the schedules attached to this Agreement.

Section 5.11. Relationships With Related Persons. Upon the closing, Neither Seller nor any Related Person of Seller has or will have any interest in any property (whether real, personal, or mixed and whether tangible or intangible), used in or pertaining to the Joint Venture's business.

Section 5.12. Brokers or Finders. Seller and his agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement and will indemnify and hold Purchaser harmless from any such payment alleged to be due by or through Seller as a result of the action of Seller or Seller's officers or agents.

**ARTICLE VI--  
REPRESENTATIONS AND WARRANTIES OF SHADOW WOOD, LLC**

Purchaser represents and warrants to Seller as follows:

Section 6.01. Organization Power. Purchaser is a Kentucky limited liability company duly organized and in existence under the laws of the Commonwealth of Kentucky; all reports that Purchaser is required to be filed with the Kentucky Secretary of State have been filed; and no articles of dissolution pertaining to the Purchaser have been filed with the Kentucky Secretary of State. The Purchaser is not required to be qualified as a foreign corporation in any other state or

jurisdiction. Purchaser has all requisite power and authority to own, lease, and operate the assets used in the conduct of its business and to carry on its business as it is now being conducted and does not know anything to the contrary. Purchaser has delivered to Seller true, complete, and accurate copies of its Articles of Organization as presently in effect.

Section 6.02. Authority, Statement of No Conflict. This Agreement constitutes the legal, valid, and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. Upon the execution and delivery by Purchaser of Documents to which it is a party (collectively, the "Purchaser's Closing Documents"), Purchaser's Closing Documents will constitute the legal, valid, and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms. Purchaser has the absolute and unrestricted right, power, authority, and capacity to execute and deliver this Agreement and Purchaser's Closing Documents and to perform its obligations under this Agreement and the Purchaser's Closing Documents, subject only to review and approval of the Jefferson County Fiscal Court pursuant to KRS 220.035.

Section 6.04. Certain Proceedings. There is no pending Proceeding that has been commenced against Purchaser and that challenges, or may have the effect of preventing, delaying or making illegal, or otherwise interfering with, any of the Contemplated Transactions to Purchaser.

Section 6.05. Brokers or Finders. Purchaser and its agents have incurred no obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with this Agreement and will indemnify and hold Seller harmless from any such payment alleged to be due by or through Purchaser as a result of the action of Purchaser or its officers or agents.

## **ARTICLE VII-- COVENANTS OF SELLER**

Section 7.01. Access and Investigation. Up to and including February 28<sup>th</sup>, 2005, Seller will, and will cause the Joint Venture and its Representatives to, afford Purchaser and its Representatives (collectively, "Purchaser's Advisors") full and free access to the personnel, properties (including subsurface testing), contracts, books and records, and other documents and data of the Seller and the Joint Venture; furnish Purchaser and Purchaser's Advisors with copies of all such contracts, books and records, and other existing documents and data as Purchaser may reasonably request; and furnish Purchaser and Purchaser's Advisors with such additional financial, operating, and other data and information as Purchaser may reasonably request.

Section 7.02. Operation of the Businesses of the Company. Between the date hereof and February \_\_\_\_\_, 2005, Seller will conduct the business of the Joint Venture only in the Ordinary Course of Business; use Seller's Best Efforts to preserve intact the current business organization of the Joint Venture; keep available the services of the current officers, employees, and agents of the Joint Venture; maintain the relations and good will with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with the Joint Venture; and confer with Purchaser concerning Joint Venture operational matters of a material nature.

Section 7.03. Negative Covenant. Except as otherwise expressly permitted by this Agreement, between the date of this Agreement and February 28, 2005, Seller will not, and will cause the Joint Venture not to, without the prior consent of Purchaser, take any affirmative action, or fail to take any reasonable action within Seller's control, as a result of which any material negative change or event may take place.

Section 7.04. Required Approvals. As promptly as practicable after the date hereof, Seller will, and will cause the Joint Venture to, make all filings required by legal Requirements to be made by them in order to consummate the Contemplated Transactions (including all filings with professional licensing authorities). Up to and including February 28, 2005, Seller will, and will cause the Joint Venture to cooperate with Purchaser with respect to all filings that Purchaser elects to make or is required by legal Requirements to make in connection with the Contemplated Transactions.

Section 7.05. Notification. Up to and including February 28, 2005, Seller will promptly notify Purchaser in writing if Seller or the Joint Venture becomes aware of any fact or condition that causes or constitutes a Breach of any of Seller's representations and warranties as of the date of this Agreement, or if such Seller or the Joint Venture becomes aware of the occurrence after the date of this Agreement of any fact or condition that would (except as expressly contemplated by this Agreement) cause or constitute a Breach of any such representation or warranty had such representation or warranty been made as of the time of occurrence or discovery of such fact or condition. Should any such fact or condition require any change in the Schedules to this Agreement if this Agreement were dated the date of the occurrence or discovery of any such fact or condition, Seller will promptly deliver to Purchaser a supplement to the Schedules to this Agreement specifying such change. During the same period, Seller will promptly notify Purchaser of the occurrence of any Breach of any covenant of Seller in this Article VII or of the occurrence of any event that may make the satisfaction of the conditions in this Agreement impossible or unlikely.

Section 7.06. Payment of Indebtedness by Related Persons. Except as expressly provided in this Agreement, Seller will cause all indebtedness owed to the Company by Seller or any Related Person of Seller to be paid in full prior to Closing.

Section 7.07. No Negotiation. Until such time, if any, as this Agreement is terminated pursuant to Article XI, Seller will not, and will cause the Company and each of its Representatives not to, directly or indirectly solicit, initiate, or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information to, or consider the merits of any unsolicited inquiries or proposals from, any Person (other than Shadow Wood, LLC) relating to any transaction involving the sale of the business or assets (other than in the Ordinary Course of Business) of the Company, or any of the ownership interests of the Company, or any merger, consolidation, business combination, or similar transaction involving the Company.

Section 7.08. Best Efforts. Up to and including February 28, 2005, Seller will use its Best Efforts to cause the conditions in Articles IX and X to be satisfied.

**ARTICLE VIII--  
COVENANTS OF SHADOW WOOD, LLC**

Section 8.01. Approvals of Governmental Bodies. As promptly as practicable after the date of this Agreement, Purchaser will make those filings reasonably required by Legal Requirements to be made by it to consummate the Contemplated Transactions.

Section 8.02. Records. From the Closing Date and through and until all customer receivables have been paid to Seller by the Purchaser, the Purchaser shall provide Seller with all copies of all records reflecting the receipt of customer receivables for service provided by Seller up to the Closing Date and payment of same to Seller pursuant to Section 3.01.

Section 8.03. Best Efforts. Up to and including February 28, 2005, Purchaser will use its Best Efforts to cause the conditions in Sections IX and X to be satisfied.

Section 8.04 Notification. Up to and including February 28, 2005, Seller will promptly notify Purchaser in writing if Seller becomes aware of any fact or condition that causes or constitutes a Breach of any of Purchaser's representations and warranties as of the date of this Agreement, or if Purchaser becomes aware of the occurrence after the date of this Agreement of any fact or condition that would (except as expressly contemplated by this Agreement) cause or constitute a Breach of any such representation or warranty had such representation or warranty been made as of the time of occurrence or discovery of such fact or condition. Should any such fact or condition require any change in the Schedules to this Agreement if this Agreement were dated the date of the occurrence or discovery of any such fact or condition, Purchaser will promptly deliver to Seller a supplement to the Schedules to this Agreement specifying such change. During the same period, Purchaser will promptly notify Seller of the occurrence of any Breach of any covenant of Purchaser in this Article XIII or of the occurrence of any event that may make the satisfaction of the conditions in this Agreement impossible or unlikely.

**ARTICLE IX--  
CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATION TO CLOSE**

Purchaser's obligation to purchase the Interest and to take the other actions required to be taken by Purchaser at the Closing is subject to Purchaser's satisfaction, in its sole discretion, at or prior to the Closing, of each of the following conditions (any of which maybe waived by Purchaser, in whole or in part):

Section 9.01. Accuracy of Representations.

(a) All of Seller's and Joint Venture's representations and warranties in this Agreement (considered collectively), and each of these representations and warranties (considered individually), must have been accurate in all material respects as of the date of this Agreement,

and must be accurate in all material respects as of the Closing Date as if made on the Closing Date, without giving effect to any supplement to the Schedules to this Agreement.

Section 9.02. Seller's Performance.

(a) All of the covenants and obligations that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually) must have been duly performed and complied with in all material respects.

(b) Each document required to be delivered pursuant to Section 4.02 must have been delivered, and each of the other covenants and obligations in this Agreement must have been performed and complied with in all material respects.

Section 9.03. No Proceedings. Since the date of this Agreement, there must not have been commenced or threatened against Purchaser, Seller, or the Joint Venture, or against any Person affiliated with Purchaser, Seller, or the Joint Venture, any Proceeding (a) involving any challenge to, or seeking damages or other relief in connection with, any of the Contemplated Transactions, or (b) that may have the effect of preventing, delaying, making illegal, or otherwise interfering with any of the Contemplated Transactions.

Section 9.04. No Claim Regarding Interest Ownership or Sale Proceeds. There must not have been made or Threatened by any Person any claim asserting that such Person (a) is the holder or the beneficial owner of, or has the right to acquire or to obtain beneficial ownership of, any Interest or any other voting, equity, or ownership interest in, the Joint Venture, or (b) is entitled to all or any portion of the Purchase Price payable for the Interest.

Section 9.05. No Prohibition. Neither the consummation nor the performance of any of the Contemplated Transactions will, directly or indirectly (with or without notice or lapse of time), materially contravene, or conflict with, or result in a material violation of, or cause Purchaser or any Person affiliated with Purchaser to suffer any material adverse consequence under: (a) any applicable legal Requirement or Order, or (b) any legal Requirement or Order that has been published, introduced, or otherwise formally proposed by or before any Governmental Body.

Section 9.06. Purchaser's Due Diligence Investigation. Up to and including February 28, 2005, Purchaser shall be entitled to conduct any asset/real property feasibility, soil, water and/or drill test studies, survey, property financial analysis, improvements or lease inspections, title examination, or zoning inquiry, or apply for any real property or operations approvals which Purchaser may in its sole discretion choose. Purchaser shall not be obligated to close if any such investigation indicates, in Purchaser's sole opinion, that the Joint Venture, its assets, its real property, or its operations is not acceptable to Purchaser. Purchaser shall bear the costs of all such studies and all results of same shall be the sole and exclusive property of the Purchaser. If the Joint Venture, its assets or its real property is not acceptable to Purchaser in Purchaser's sole discretion, Purchaser shall notify Seller of such on or before February 28, 2005.

**ARTICLE X--  
CONDITIONS PRECEDENT TO SELLER'S OBLIGATION TO CLOSE**

Seller's obligation to sell the Interest and to take the other actions required to be taken by Seller at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Seller, in whole or in part):

Section 10.01. Accuracy of Representations. All of Purchaser's representations and warranties in this Agreement (considered collectively), and each of these representations and warranties (considered individually), must have been accurate in all material respects as of the date of this Agreement and must be accurate in all material respects as of the Closing Date as if made on the Closing Date.

Section 10.02. Purchaser Performance. Purchaser must have delivered each of the documents required to be delivered by Purchaser pursuant to Section 4.02 and must have made the cash payments required to be made by Purchaser pursuant to Section 4.02.

Section 10.03. No Injunction. There must not be in effect any legal Requirement or any injunction or other Order that prohibits the sale of the Interest by Seller to Purchaser.

**ARTICLE XI--  
TERMINATION**

Section 11.01. Termination Events. This Agreement may, by notice given prior to or at the Closing, be terminated:

(a) by either Purchaser or Seller if material Breach of any provision of this Agreement has been committed by the other party and such Breach has not been waived;

(b) by Purchaser if any of the conditions in Article IX has not been satisfied as of the Closing Date or if satisfaction of such a condition is or becomes impossible (other than through the failure of Purchaser to comply with its obligations under this Agreement); and Purchaser has not waived such condition on or before the Closing Date;

(c) by Seller, if any of the conditions in Article X has not been satisfied of the Closing Date or if satisfaction of such a condition is or becomes impossible (other than through the failure of Seller to comply with his obligations under this Agreement) and Seller has not waived such condition on or before the Closing Date;

(d) by mutual consent of Purchaser and Seller;

(e) by either Purchaser or Seller if the Closing has not occurred (other than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before \_\_\_\_\_, 2005, or such later date as



the parties may agree upon;

(f) by that party to whom additional information is disclosed after execution of this Agreement, by way of Schedules, document review, or other means, if such additional information has a material and adverse affect on the terms of this Agreement as they affect the party to whom additional information is disclosed.

Section 11.02. Effect of Termination. Each party's right of termination under Section 11.01 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 11.01, all further obligations of the parties under this Agreement will terminate except that the obligations in Sections 12.01 will survive; provided, however, that if this Agreement is terminated by a party because of the Breach of the Agreement by the other party or because one or more of the terminating party's conditions to close under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## **ARTICLE XII-- INDEMNIFICATION; REMEDIES**

Section 12.01. Survival: Right to Indemnification Not Affected by Knowledge. All representations, warranties, covenants, and obligations in this Agreement, the Schedules to this Agreement, the supplements to this Agreement, the certificates delivered pursuant to Section 4.02 and any other certificate or document delivered pursuant to this Agreement will survive the Closing. The right to indemnification, payment of Damages or other remedy based on such representations, warranties, covenants, and obligations will not be affected by any investigation conducted with respect to, or any Knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any such representation, warranty, covenant, or obligation. The waiver of any condition based on the accuracy of any representation or warranty or on the performance of or compliance with any covenant or obligation will not affect the right to indemnification, payment of Damages, or other remedy based on such representations, warranties, covenants, and obligations.

Section 12.02. Indemnification and Payment of Damages by Seller. Seller will indemnify and hold harmless Purchaser and its Representatives (collectively, the "Indemnified Persons") for, and will pay to the Indemnified Persons the amount of, any loss, liability, claim, damage (including incidental and consequential damages), expense (including costs of investigation and defense and reasonable attorneys' fees) or diminution of value, whether or not involving a third-party claim (collectively, "Damages"), arising, directly or indirectly, from or in connection with any Breach of any representation or warranty made by Seller in this Agreement, including the Schedules to this Agreement (without giving effect to any supplement to the Schedules to this Agreement), the supplements to the Schedules to this Agreement, or any other certificate or document delivered by Seller pursuant to this Agreement. Any indemnification provided by this Section 12.02 for any Breach by the Seller of any covenant or obligation of the Seller will not

EXHIBIT B

AMENDED ARTICLES OF INCORPORATION  
OF  
FOURTH AVENUE AMUSEMENT COMPANY  
TO BE  
FOURTH AVENUE CORPORATION

FOURTH AVENUE AMUSEMENT COMPANY is a corporation, authorized and existing under the laws of the Commonwealth of Kentucky pursuant to Articles of Incorporation dated April 24, 1914, recorded in Corporation Book 23, Page 75, in the Office of the Clerk of the County Court of Jefferson County, Kentucky, and five (5) amendments thereto, respectively dated and recorded in said Clerk's office as follows:

July 13, 1916, Corporation Book 25, Page 348

March 15, 1921, Corporation Book 30, Page 470

February 23, 1928, Corporation Book 38, Page 10

November 21, 1928, Corporation Book 38, Page 520

February 2, 1931, Corporation Book 41, Page 47

Said corporation through its President and Secretary certify as follows:

(1) That the Board of Directors of this Corporation at a meeting duly called and held on the 13th day of December, 1963, adopted the following resolutions:

RESOLVED That it is advisable to amend the Charter of the Corporation by changing its name, changing the provisions with respect to its principal place of business, enlarging its powers and purposes, clarifying the provisions with respect to corporate structure, designating its process agent, increasing

its authorized number of directors, authorizing changes with respect to the date of the annual meeting, clarifying the provisions with respect to the powers of the Board of Directors and officers, increasing its authorized maximum indebtedness and making certain other provisions now not contained in the Articles of Incorporation as same have been amended from time to time.

(ii) That thereafter on the 21st day of January, 1964, pursuant to said call and to due and written notice thereof given to each stockholder of said Corporation, a meeting of the stockholders was held; that a quorum was present;

(iii) That at said meeting a vote of the stockholders present in person and by proxy was taken for and against the proposed amendments set out; that every stockholder present in person and by proxy voted "aye" and no stockholder voted against the adoption of said amendments.

The foregoing having occurred, and it being so certified, the following are adopted as the Amended Articles of Incorporation of said Corporation, to-wit:

#### ARTICLE I

The name of the corporation shall be Fourth Avenue Corporation.

#### ARTICLE II

The principal office and principal place of business shall be located at Suite 356 Francis Building, Louisville 2, Kentucky, with the right to establish and maintain offices and other places of business at such other places as it may select within the State of Kentucky or out of it.

### ARTICLE III

The purpose for which the Corporation is formed and the nature and subject and purposes to be transacted, promoted and carried on shall be as follows:

- A. To operate places for the purpose of furnishing entertainment and amusement.
- B. To sell refreshments, foods, beverages and other types of merchandise at retail and at wholesale.
- C. To own and operate restaurants, hotels, motels, mobile home parks, laundries, bus and pipe lines, quarries, barges, motor vehicles, airplanes, stores and warehouses.
- D. To buy, own, sell, lease and develop real property.
- E. To buy, own, operate, sell, lease and construct buildings of every type.
- F. To buy, own, sell and lease personal tangible property of every type.
- G. To engage in the manufacturing of products.
- H. To acquire, guarantee, hold, own, vote, sell, assign, transfer, mortgage, pledge, or otherwise dispose of stocks, bonds, securities or evidences of indebtedness of any corporation (including subsidiaries), domestic or foreign.
- I. To act as guarantor or surety for the benefit of the Corporation or the benefit of others.
- J. To borrow and lend money and arrange loans of every kind and character.
- K. To jointly engage in any of the aforesaid activities with other corporations, firms or individuals.
- L. To do any and all things as may be necessary and proper for the conduct of the aforesaid business and any and all things necessary and incidental thereto.

#### ARTICLE IV

The capital stock of the corporation shall consist of One Hundred Thousand (100,000) shares of common stock having a par value of One Hundred Dollars (\$10.00) per share and a total value of One Million Dollars (\$1,000,000.00).

All shares of common stock shall have equal voting powers.

#### ARTICLE V

The registered agent of the Corporation for the service of process shall be Samuel Steinfeld, 1106 Kentucky Home Life Building, Louisville 2, Kentucky.

#### ARTICLE VI

The duration of the Corporation shall be perpetual, unless previously dissolved by the action of the stockholders.

#### ARTICLE VII

The affairs of the Corporation shall be managed and conducted by a Board of Directors consisting of not less than three (3) nor more than nine (9), and by a President, Vice-President, Secretary, Treasurer and such other officers as the Board of Directors shall from time to time determine.

The Stockholders shall elect the Directors at the annual meeting, to serve for a term of one (1) year and until their successors are elected and qualified. The officers shall be elected by the Board of Directors at the first meeting of the Board following the annual meeting of Stockholders. The term of office for each officer shall be one (1) year and until their successor is elected and qualified. Any one person may, by vote of the

Board of Directors, hold any two (2) of the above offices, in addition to being a director of the Company, except that the offices of President and Vice-President may not be held by the same person.

#### ARTICLE VIII

The annual meeting of the stockholders shall be held on the third (3rd) Tuesday in January, at 2:30 o'clock PM, of every year, at the principal office of the Company, or at such other time and place as may be fixed by the Board of Directors of the Corporation.

#### ARTICLE IX

The Board of Directors shall have general supervision of the officers of the Corporation and such other powers and duties as is customary with respect to directors of Kentucky corporations as authorized by law.

The officers of the Corporation shall have such power and duties as are authorized by the stockholders, or the directors and such other powers and duties as is customary with respect to officers of Kentucky Corporations as authorized by law.

The stockholders shall have the power to make, alter, and amend by-laws and the further power to authorize the Board of Directors to make, alter, and amend by-laws, for the conduct of the business and affairs of the Corporation.

#### ARTICLE X

The highest amount of indebtedness or liability which the Corporation may at any time incur is unlimited.

ARTICLE XI

The private property of the stockholders of this Corporation shall not be subject to or liable to the payment of Corporate debts, but shall be specifically exempt therefrom.

IN TESTIMONY WHEREOF, witness the signatures of the President and Secretary of the Corporation this the 21st day of January, 1964.

*D. Irving Long*  
PRESIDENT  
*Ira J. Kerr*  
SECRETARY

STATE OF KENTUCKY  
COUNTY OF JEFFERSON

Before the undersigned Notary Public in and for the above State and County this day personally appeared D. Irving Long and Ira J. Kerr, President and Secretary respectively of Fourth Avenue Amusement Company who acknowledged and delivered the foregoing Amended Articles of Incorporation to be their act and deed and further certify the adoption thereof as stated herein.

Witness my hand this 21<sup>st</sup> day of January, 1964.

My commission expires the 12th day of December

1966

Notary Public, Jefferson County, Ky.  
My commission expires Dec 13, 1966

*Robert T. Kinn*  
NOTARY PUBLIC, JEFFERSON COUNTY, KY.

THE FOREGOING AMENDED ARTICLES OF INCORPORATION WERE PREPARED BY SAMUEL STEINFELD, 1106 KENTUCKY HOME LIFE BUILDING, LOUISVILLE 2, KENTUCKY

*Samuel Steinfeld*

ORIGINAL COPY  
FILED AND RECORDED

JAN 23

*Helms L. Howell*  
SECRETARY OF STATE OF KENTUCKY  
FRANKFORT, KENTUCKY  
BY *James Howell*  
CHIEF CORP. CLERK

Commonwealth of Kentucky  
Department of State



Office of Secretary of State

ELMER BEGLEY, SECRETARY

ARTICLES OF INCORPORATION

I, *ELMER BEGLEY*, Secretary of State of the Commonwealth of Kentucky, do hereby certify that Articles of Incorporation of

LONG CORPORATION

Louisville, Kentucky

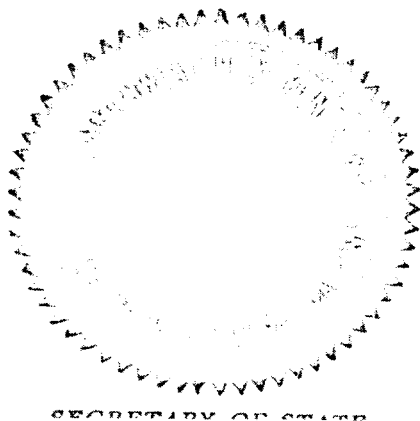
duly signed and acknowledged according to law, have this day been filed in my office. I further certify that all taxes, fees and charges payable upon the filing of said Articles of Incorporation have been paid

Witness my official signature this 2nd day

of July, 1970.

*Elmer Begley*  
Secretary of State

*Mary P. Hulvey*  
Assistant Secretary of State





ARTICLES OF INCORPORATION

of

LONG CORPORATION

---

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned hereby forms a corporation under the laws of the Commonwealth of Kentucky and that he does hereby execute the following articles:

I.

The name of the corporation shall be:

LONG CORPORATION

II.

The purpose or purposes of this corporation are as follows:  
To acquire by purchase, lease, or otherwise, and to improve and develop real property. In general to carry on any business in connection therewith and incident thereto not forbidden by the laws of the Commonwealth of Kentucky and with all of the powers conferred upon corporations by the laws of the Commonwealth of Kentucky, including, without limitation, the right to lend the corporation's credit and to guarantee, endorse, and underwrite the obligations and contracts of other parties.

III.

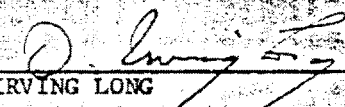
The duration of the corporation shall be perpetual, subject to the rights of shareholders to dissolve the corporation.

- 1 -

conformed copy  
(recorded in the office of the  
Jefferson County Clerk on 1/8/77)

the stockholders to change or repeal such by-laws.

IN TESTIMONY WHEREOF, the incorporator has signed these articles of incorporation this 30 day of June, 1970.


  
D. IRVING LONG

STATE OF KENTUCKY     )  
COUNTY OF JEFFERSON   )

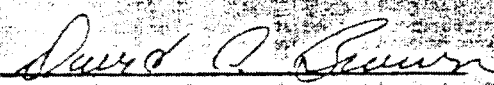
I, a Notary Public, qualified and acting in and for the State and County aforesaid, hereby certify that on the 30 day of June, 1970, the foregoing articles of incorporation of LONG CORPORATION were produced before me in said state and county by D. IRVING LONG and acknowledged by him to be his act and deed.

WITNESS my signature and seal as Notary Public this 30 day of June, 1970.

My commission expires: 9-2-77

  
Notary Public  
Jefferson County, Kentucky

This instrument was prepared by DAVID C. BROWN, of Stites & McElwain, 1212 Kentucky Home Life Building, Louisville, Kentucky.



ORIGINAL COPY  
FILED AND RECORDED



JUL 2 1970

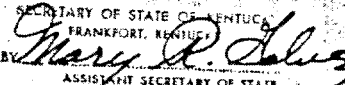
SECRETARY OF STATE OF KENTUCKY  
FRANKFORT, KENTUCKY  
BY   
ASSISTANT SECRETARY OF STATE

EXHIBIT C

Blanket Resolutions of Shadow Wood joint venture partners submitted  
With PSC Case # \_\_\_\_\_

To be Forwarded during application process

EXHIBIT D

**CONSENT RESOLUTIONS OF  
THE MEMBERS/MANAGER OF  
SHADOWWOOD WASTE ENVIRONMENTAL, LLC**

The undersigned, being all of the members and the managers of Shadowwood Waste Environmental, LLC, a Kentucky limited liability company, hereby adopt the following resolutions by unanimous consent:



**WHEREAS**, Shadowwood Waste Environmental, LLC, (the "Company") desires to purchase from Fourth Avenue Corporation, a Kentucky corporation and Long Corporation, a Kentucky corporation, (hereinafter "Seller") certain wastewater collection, conveyance and treatment facilities, assets pertaining thereto, and the real property on which such wastewater collection facilities are located in the cities of Prospect and Harrods Creek, Kentucky more particularly described on Exhibit A attached hereto (the "Property");

**NOW THEREFORE, BE IT RESOLVED** that the undersigned hereby adopt, ratify, confirm and agree to the following resolutions:

1. Shadowwood Waste Environmental, LLC by its duly authorized member manager, is authorized and directed to execute any and all documents necessary to enter into an Agreement for Purchase and Sale of Joint Venture Assets with the Seller to purchase the Property, whose terms are identical to, or substantially similar to that Agreement attached hereto as Exhibit B;

2. Shadowwood Waste Environmental, LLC, by its duly authorized members listed below, is authorized and directed to execute any and all documents necessary to acquire the Property from the Seller pursuant to the terms of the Agreement;

3. The following member manager(s), either alone or together, are hereby authorized and directed to execute said Agreement any and all documents reasonable and necessary to acquire the Property and to effect said financing for Shadowwood Waste Environmental, LLC, on behalf of the Company:

<u>Name</u>	<u>Office/Title</u>	<u>Signature</u>
Julie K. Tinnell	Member-Manager	
Craig Perdue	Member-Manager	

4. All other acts of any of the above-named member-managers of Shadowwood Waste Environmental, LLC, on behalf of the Company, that are in conformity with the purposes and intent of

these resolutions and in furtherance of the purchase of the above referenced Property are hereby approved, ratified and confirmed.

The undersigned certify that they constitute all of the members and managers of Shadowwood Waste Environmental, LLC this 3 day of September, 2004.



Julie K. Tinnell, Member/Manager



Craig Perdue, Member/Manager

d:\m\alldocuments\shadowwood/resolutions

EXHIBIT E

(See Exhibit G for Financials of Premier Land Co.)

EXHIBIT F

(2003 Year-End  
on FILE WITH  
PSC

KENTUCKY PUBLIC SERVICE COMMISSION  
REPORT OF GROSS OPERATING REVENUES DERIVED FROM INTRA-KENTUCKY  
BUSINESS FOR THE YEAR ENDING DECEMBER 31, 2002

Shadow Wood Subdivision Sewer Service - P.O. Box 1267  
A Joint Venture of Long Corp./Fourth Ave. Corp. Prospect, KY 40059  
(Utility Reporting) (Address)

(DO NOT INCLUDE TAXES COLLECTED)

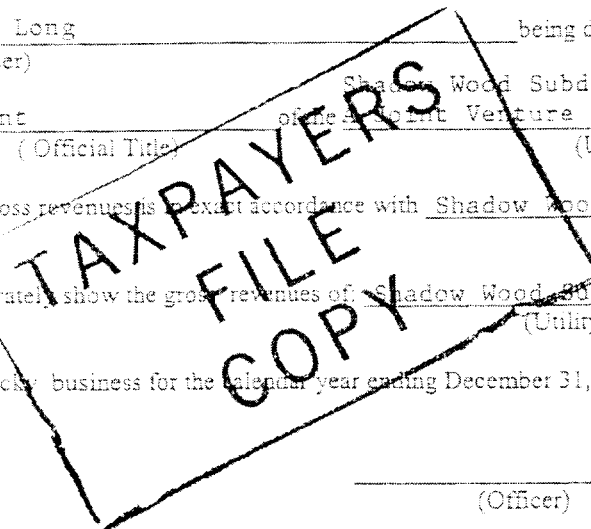
- (1) Gross Revenues of Electric Utility.....\$ \_\_\_\_\_
- (2) Gross Revenues of Gas Utility.....\$ \_\_\_\_\_
- (3) Gross Revenues of Water Utility.....\$ \_\_\_\_\_
- (4) Gross Revenues of Sewer Utility.....\$ 82,577
- (5) Other Operating Revenues.....\$ \_\_\_\_\_
- \*\*\* TOTAL GROSS REVENUES.....\$ 82,577

OATH

State of... Kentucky.....)  
County of... Jefferson.....) ss.

Clay W. Long being duly sworn, states that he/she is  
(Officer)  
President of Shadow Wood Subdivision Sewer Service -  
(Official Title) of the Joint Venture of Long Corp./Fourth Ave. Corp. that the above  
(Utility Reporting)

report of gross revenues is in exact accordance with Shadow Wood Subdivision Sewer, and that such  
(Utility Reporting) Service  
books accurately show the gross revenues of Shadow Wood Subdivision Sewer, derived from  
(Utility Reporting) Service  
intra-Kentucky business for the calendar year ending December 31, 2002.



\_\_\_\_\_  
(Officer) (Title)  
This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
(Notary Public) (County) (Commission Expires)

NOTE: ANY DIFFERENCE BETWEEN THE AMOUNT OF THE GROSS REVENUES SHOWN IN THE ANNUAL REPORT AND THE AMOUNT APPEARING ON THIS STATEMENT MUST BE RECONCILED ON THE REVERSE OF THIS REPORT.

# Sewer

ANNUAL REPORT

OF

SHADOW WOOD SUBDIVISION SEWER SERVICE -

A JOINT VENTURE OF LONG CORP / FOURTH AVENUE CORPORATION

Exact Legal Name of Reporting Utility

P. O. Box 1267

PROSPECT, KY 40059

(Address of Utility)

TO THE  
PUBLIC SERVICE COMMISSION  
OF THE  
COMMONWEALTH OF KENTUCKY

FOR THE CALENDAR YEAR ENDED DECEMBER 31, 20 02



PUBLIC SERVICE COMMISSION OF KENTUCKY  
PRINCIPAL PAYMENT AND INTEREST INFORMATION  
FOR THE YEAR ENDING DECEMBER 31, 20 02

1. Amount of Principal Payment during calendar year \$ - 0 -
2. Is Principal current? (Yes) \_\_\_\_\_ (No) \_\_\_\_\_
3. Is Interest current? (Yes) \_\_\_\_\_ (No) \_\_\_\_\_
4. Has all long-term debt been approved by the Public Service Commission?  
Yes \_\_\_\_\_ No \_\_\_\_\_ PSC Case Number \_\_\_\_\_

SERVICES PERFORMED BY  
INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT

Are the financial statements examined by a Certified Public Accountant? (Yes) \_\_\_\_\_ (No) X

If yes, which service was performed?

Audit \_\_\_\_\_  
Compilation \_\_\_\_\_  
Review \_\_\_\_\_

Please enclose a copy of the accountant's report with the annual report.

AUDIT OF THE ANNUAL REPORT  
SEWER UTILITIES

To Be Completed and Returned With Annual Report

Page No.	Line No.	Page No.	Line No.	Yes	No	If No, Explain Why
2	4	4	12	X		
		agrees with				
						(Utility Plant)
2	6	4	15	X		
		agrees with				
						(Utility Plant)
2	7	4	17	X		
		agrees with				
						(Utility Plant)
4	2	5	40	X		
		agrees with				
						(Utility Plant)
4	23	4	15	X		
		agrees with				
						(Utility Plant)
3	4 & 5	6		X		Capital Stock
		agrees with				
						Balance End of
3	10	7		X		Year Statement of
		agrees with				Retained Earnings
						Long-Term Debt,
3	19	6		X		Total (d)
		agrees with				Notes Payable,
						Total (e)
3	23	6		X		Interest Accrued,
		agrees with				Balance End of
						Year, Total
3	29	6		X		
		agrees with				
3	30	7	21	X		
		agrees with				
						(Depre-
4	3	8	25	X		ciation)
		agrees with				Interest Accrued
6		8	40	X		During Year-LTD
		agrees with				Interest Accrued
6		8	43	X		During Year-Other
		agrees with				
8	24	9	52	X		
		agrees with				
8	27	10	Acct. 468.1	X		
		agrees with				Total Income Taxes
8	28	10	Utility Operating	X		
		agrees with				Income

AUDIT OF THE ANNUAL REPORT

SEWER UTILITIES

TO BE COMPLETED AND RETURNED WITH ANNUAL REPORT

<u>Page No.</u>	<u>Line No.</u>	<u>Page No.</u>	<u>Line No.</u>	<u>Yes</u>	<u>No</u>	<u>If No, Explain Why</u>
8	26	10	Amortization Expense	X		
8	44	10	Account 408.2	X		
8	45	10	Total Income Taxes Nonutility Operating Income	X		
Pages 11 and 12 have been completed						
The Oath Page has been completed						



BALANCE SHEET

Line No.	ASSETS AND OTHER DEBITS	Balance First Of Year	Balance Last Of Year
1			
2	UTILITY PLANT		
3			
4	Utility Plant(101-109)	438,339	438,339
5	Less: Accum. Prov. for Depr. and Amort.		
6	of Utility Plant(110)	311,874	320,305
7	Net Utility Plant	126,465	118,034
8			
9	OTHER PROPERTY AND INVESTMENTS		
10			
11	Non-Utility Property(121)		
12	Less: Accum. Prov. for Depr. and Amort.		
13	of Non-Utility Property(122)		
14	Net Non-Utility Property		
15	Other Investments(124)		
16	Special Funds(125)		
17			
18			
19	Total Other Property and Investments	- 0 -	- 0 -
20			
21	CURRENT AND ACCRUED ASSETS		
22			
23	Cash and Working Funds(131)	6,756	2,469
24	Temporary Cash Investments(132)		
25	Notes Receivable(141)		
26	Customer Accounts Receivable(142)	1,230	11,899
27	Other Accounts Receivable(143)		
28	Accum. Prov. for Uncollectible Accts.-Cr.(144)		
29	Notes Receivable from Assoc. Companies(145)		
30	Accounts Receivable from Assoc. Companies(146)		
31	Materials and Supplies(150)		
32	Prepayments(166)		
33	Other Current and Accrued Assets(170)		
34			
35			
36			
37	Total Current and Accrued Assets	7,986	14,368
38			
39	DEFERRED DEBITS		
40			
41	Unamortized Debt Discount and Expense(181)		
42	Extraordinary Property Losses(182)		
43	Other Deferred Debits(183)		
44			
45			
46			
47	Total Deferred Debits	- 0 -	- 0 -
48			
49			
50	TOTAL ASSETS AND OTHER DEBITS	134,451	132,402

BALANCE SHEET

Line No.	LIABILITIES AND OTHER CREDITS	Balance First Of Year	Balance Last Of Year
1			
2	EQUITY CAPITAL		
3			
4	Common Capital Stock(201)		
5	Preferred Capital Stock(204)		
6	Other Paid-In Capital(207)		
7	Discount on Capital Stock(213)		
8	Capital Stock Expense(214)		
9	Appropriated Retained Earnings(215)		
10	Unappropriated Retained Earnings(216)	107,699	66,037
11	Non-Corporate Proprietorship(218)		
12	Total Equity Capital	107,699	66,037
13			
14	LONG TERM DEBT		
15			
16	Bonds(221)		
17	Advances From Associated Companies(223)		
18	Other Long Term Debt(224)		
19	Total Long Term Debt		
20			
21	CURRENT AND ACCRUED LIABILITIES		
22			
23	Notes Payable(231)		
24	Accounts Payable(232)		
25	Notes Payable to Associated Companies(233)		
26	Accounts Payable to Associated Companies(234)	26,752	66,365
27	Customer Deposits(235)		
28	Taxes Accrued(236)		
29	Interest Accrued(237)		
30	Other Current and Accrued Liabilities(238)		
31	Total Current and Accrued Liabilities	26,752	66,36
32			
33	DEFERRED CREDITS		
34			
35	Advances for Construction(252)		
36	Other Deferred Credits(253)		
37	Accum. Deferred Investment Tax Credits(255)		
38	Total Deferred Credits		
39			
40	Operating Reserves(261-265)		
41			
42	Contributions in Aid of Construction(271)		
43			
44	ACCUMULATED DEFERRED INCOME TAXES		
45			
46	Accum. Def. Income Taxes-Accel. Amort.(281)		
47	Accum. Def. Income Taxes-Lib. Depr.(282)		
48	Accum. Def. Income Taxes-Other(283)		
49	Total Accum. Deferred Income Taxes	-0-	-0-
50	TOTAL LIABILITIES AND OTHER CREDITS	134,451	132,402

SUMMARY OF UTILITY PLANT

Line No.	Acct No.	Item	Amount
		UTILITY PLANT	
1		In Service:	
2	101	Plant in Service Classified(from pg. 5, line 40)	438,339
3	102	Completed Construction Not Classified	
4	103	Utility Plant in Process of Reclassification	
5	106	Utility Plant Purchased or Sold	
6		Total-In Service	438,339
7	104	Utility Plant Leased to Others	
8	105	Property Held for Future Use	
9	107	Construction Work in Progress	
10	108	Utility Plant Acquisition Adjustments	
11	109	Other Utility Plant Adjustments	
12		Total Utility Plant(to pg. 2, line 4)	438,339
13		Less:	
14	110	Accumulated Provision for Depreciation and	
15		Amort. of Utility Plant(to pg. 2, line 6)	320,305
16			
17		NET UTILITY PLANT(to pg. 2, line 7)	118,034

ACCUM. PROV. FOR DEPRECIATION AND AMORTIZATION OF UTILITY PLANT

Line No.	Item	Amount
1	Balance Beginning of Year	311,874
2	Accruals for Year:	
3	Depreciation	8,431
4	Amortization	
5	Other Accounts(detail):	
6		
7		
8	Total Accruals for Year	8,431
9	Credit Adjustments(describe):	
10		
11		
12	Total Credits for Year	
13		
14	Net Charges for Plant Retired:	
15	Book Cost of Plt. Ret.(same as pg. 5, line 40)	<del>          </del>
16	Add: Cost of Removal	<del>          </del>
17	Less: Salvage	<del>          </del>
18	Net Charges for Plant Retired	
19	Debit Adjustments(describe):	
20		
21		
22	Total Debit Adjustments for Year	-0-
23	Balance End of Year	320,305

SEWER UTILITY PLANT IN SERVICE

Report in col. (e) entries reclass. property from one acct. to another. Corrections of additions or retirements of the prec. yr. should be recorded in col. (c) or (d) as they are corrections of additions or retirements.

Line No.	Account	Depr. Rate	Balance First of Yr.	Additions	Retire-ments	Adj.-Inc. or Dec.	Balance End of Year
1	INTANGIBLE PLANT						
2	Organization(301)						
3	Franchise and Consents(302)						
4	Miscellaneous Intangible Plant(303)						
5	Total Intangible Plant						
6	LAND AND STRUCTURES						
7	Land and Land Rights(310)						
8	Structures and Improvements(311)		227,565				227,565
9	Total Land and Structures		227,565				227,565
10	COLLECTION PLANT						
11	Collection Sewers-Force(352.1)		99,554				99,554
12	Collection Sewers-Gravity(352.2)		67,011				67,011
13	Other Collection Plant Facilities(353)						
14	Services to Customers(354)						
15	Flow Measuring Devices(355)						
16	Total Collection Plant		166,565				166,565
17	PUMPING PLANT						
18	Receiving Wells and Pump Pits(362)		44,209				44,209
19	Pumping Equipment-Electric(363A)						
20	Pumping Equipment-Diesel(363B)						
21	Pumping Equipment-Other(363C)						
22	Total Pumping Plant		44,209				44,209
23	TREATMENT AND DISPOSAL PLANT						
24	Oxidation Lagoon(372)						
25	Treatment and Disposal Equipment(373)						
26	Plant Sewers(374)						
27	Outfall Sewer Lines(375)						
28	Other Treat. & Dis. Plt. Equip.(376)						
29	Total Treatment and Disposal Plant						
30	GENERAL PLANT						
31	Office Furniture and Equipment(391)						
32	Transportation Equipment(392)						
33	Stores Equipment(393A)						
34	Tools, Shop & Garage Equipment(393B)						
35	Laboratory Equipment(393C)						
36	Power Operated Equipment(393D)						
37	Communication Equipment(393E)						
38	Other Tangible Property(393F)						
39	Total General Plant						
40	TOTAL SEWER PLANT IN SERVICE		438,339				438,339



CAPITAL STOCK

Class and Series of Stock (a)	No. Of Shares Auth. (b)	Par Value Per Share of Par Value Stk. (c)	Stated Val. Per Share Of Nonpar Stock (d)	Outstanding Per Balance Sheet	
				Shares (e)	Amount (f)
					NONE

LONG-TERM DEBT

List Each Original Issue Amt., Class & Series of Obligation (a)	Date Of Issue (b)	Date Of Maturity (c)	Outstanding Per Balance Sheet (d)	Interest For The Year	
				Rate (e)	Amount (f)
					NONE
Total					

NOTES PAYABLE

(Include Notes Payable to Associated Companies Under This Heading)

Name of Payee (a)	Date Of Note (b)	Date Of Maturity (c)	Interest Rate (d)	Balance End Of Year (e)
				NONE
Total				

INTEREST ACCRUED

Description Of Obligation (a)	Int. Acrr. Balance First Of Yr. (b)	Int. Acrr. During Year (c)	Int. Paid During Year (d)	Int. Acrr. Balance End Of Year
				NONE
Total				

OTHER CURRENT AND ACCRUED LIABILITIES

Line No.	Sub-Account and Description	Amount
1		
2		
3		
4		
5		
6		
7		
8		None
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21	Total (Must agree with page 3, line 30, Acct. No. 238)	

STATEMENT OF RETAINED EARNINGS FOR THE YEAR

Item (a)	This Year (b)	Last Year (c)
UNAPPROPRIATED RETAINED EARNINGS(216)		
Balance Beginning of Year	107,699	176,840
Balance Transferred From Income(435)	(41,662)	(69,141)
Appropriations of Retained Earnings(436):		
Dividends Declared-Preferred Stock(437)		
Dividends Declared-Common Stock(438)		
Adjustments to Retained Earnings(439):		
Balance End of Year	66,037	107,699

STATEMENT OF INCOME FOR THE YEAR

Line No.	Account (a)	Number Of Customers (b)	Amount (c)
1	OPERATING REVENUES		
2	Flat Rate Revenues-General Customers:		
3	Residential Revenues(521.1)	256	77,270
4	Commercial Revenues(521.2)	3	1,800
5	Industrial Revenues(521.3)		
6	Revenues From Public Authorities(521.4)		
7	Total(521)	259	79,070
8	Measured Revenues-General Customers:		
9	Residential Revenues(522.1)		
10	Commercial Revenues(522.2)	1	3,507
11	Industrial Revenues(522.3)		
12	Revenues From Public Authorities(522.4)		
13	Total(522)	1	3,507
14	Revenues From Public Authorities(523)		
15	Revenues From Other Systems(524)		
16	Miscellaneous Sewage Revenues(525)		
17	Total Sewage Service Revenues(521-526)	260	82,577
18	OTHER OPERATING REVENUES		
19	Customers Forfeited Discounts(532)		
20	Miscellaneous Operating Revenues(536)		
21	Total Other Operating Revenues		
22	Total Operating Revenues		82,577
23	OPERATING EXPENSES		
24	Total Sewer Operation & Maint. Exp.(from pg.9, line52)		112,092
25	Depreciation Expense(403)		8,431
26	Amortization Expense(404-407/from pg.10)		
27	Taxes Other Than Income Taxes(408.1/from pg.10)		3,716
28	Total Income Taxes-Utility Operating Income(from pg.10)		
29	Total Sewage Operating Expenses		124,239
30	Net Operating Income		( 41,662 )
31	OTHER INCOME		
32	Income From Nonutility Operations(417)		
33	Interest and Dividend Income(419)		
34	Miscellaneous Nonoperating Income(421)		
35	Other Accounts(Specify Account No. and Title):		
36			
37			
38	Total Other Income		-0-
39	OTHER DEDUCTIONS		
40	Interest on Long Term Debt(427)		
41	Amortization of Debt Discount and Expense(428)		
42	Interest on Debt to Associated Companies(430)		
43	Other Interest Expense(431)		
44	Taxes Other Than Income Taxes(408.2/from pg.10)		
45	Total Income Taxes-Nonutil. Operat. Income(from pg.10)		
46	Other Accounts(Specify Account No. and Title):		
47			
48			
49	Total Other Deductions		-0-
50	NET INCOME		( 41,662 )

SEWER OPERATION AND MAINTENANCE EXPENSES

Line No.	Account (a)	Amount (b)
1	OPERATION EXPENSES	
2	Supervision and Engineering(700):	
3	Owner/Manager-Management Fee(700-A)	30,000
4	Other Expenses(700-B)	
5	Labor and Expenses(701):	
6	Collection System-Labor, Mat'ls. & Expenses(701-A)	2,230
7	Pumping System-Labor, Mat'ls. & Expenses(701-B)	
8	Treatment System(701-C):	
9	Sludge Hauling	
10	Utility Service-Water Cost	
11	Other-Labor, Mat'ls. and Expenses	
12	Rents(702)	
13	Fuel and Power Purchased for Pumping & Treatment(703)	18,902
14	Chemicals(704)	648
15	Miscellaneous Supplies and Expenses(705):	
16	Collection System(705-A)	
17	Pumping System(705-B)	
18	Treatment and Disposal(705-C)	
19	Total Operation Expenses	51,680
20	MAINTENANCE EXPENSES	
21	Supervision and Engineering(710):	
22	Routine Maintenance Service Fee(710-A)	
23	Internal Supervision and Engineering(710-B)	
24	Maintenance of Structures and Improvements(711)	
25	Maintenance of Collection Sewer System(712)	13,009
26	Maintenance of Pumping System(713)	
27	Maintenance of Treatment and Disposal Plant(714)	28,415
28	Maintenance of Other Plant Facilities(715)	
29	Total Maintenance Expenses	41,424
30	CUSTOMER ACCOUNTS EXPENSES	
31	Supervision(901)	
32	Meter Reading Expenses and Flat Rate Inspections(902)	
33	Customer Records and Collection Expenses(903):	
34	Agency Collection Fee(903-A)	
35	Internal Labor, Materials and Expenses(903-B)	
36	Uncollectible Accounts(904)	
37	Miscellaneous Customer Accounts Expenses(905)	
38	Total Customer Accounts Expenses	-0-
39	ADMINISTRATIVE AND GENERAL EXPENSES	
40	Administrative and General Salaries(920)	
41	Office Supplies and Other Expenses(921) Utilities + Telephone	1,750
43	Outside Services Employed(923) Legal / Accounting / Billing	11,315
44	Insurance Expense(924)	3,589
45	Employee Pensions and Benefits(926)	
46	Regulatory Commission Expense(928)	
47	Transportation Expenses(929)	
48	Miscellaneous General Expenses(930)	470
49	Rents(931)	1,864
50	Maintenance of General Plant(932)	
51	Total Administrative and General Expenses	18,988
52	TOTAL SEWER OPERATION & MAINT. EXP. (to pg. 8, line 24)	112,092

TAXES OTHER THAN INCOME TAXES(408)

Show hereunder the various tax items which make up the amounts listed under Account Numbers 408.1 and 408.2 appearing on page 8, lines 27 and 44.

Line No.	Item (a)	Amount (b)
1	Payroll Taxes	
2	Property Taxes	3,376
3	Utility Regulatory Commission Assessment	
4	Other(Specify):	
5		
6		
7	KPPDES PERMIT	340
8		
9		
10		
11		
12	TOTAL(Same as page 8, line 27 plus 44)	3,716

OPERATING AND NON-OPERATING INCOME TAXES

Acct. No.	Account (a)	Amount (b)
409.1	Income Taxes-Federal	
409.1	Income Taxes-State	
409.1	Income Taxes-Other	
410.1	Provisions for Deferred Income Taxes	
411.1	Income Taxes Deferred in Prior Years-Credit	
412.0	Investment Tax Credits-Net	
	Total Income Taxes-Util. Operat. Income(to pg 8, line 28)	-0-
409.2	Income Taxes-Federal	
409.2	Income Taxes-State	
409.2	Income Taxes-Other	
410.2	Provisions for Deferred Income Taxes	
411.2	Income Taxes Deferred in Prior Years-Credit	
412.4	Investment Tax Credits-Net	
	Total Inc. Taxes-Nonutil. Op. Income(to pg. 8, line 45)	-0-

AMORTIZATION EXPENSE

Acct. No.	Account (a)	Amount (b)
404	Amortization of Limited-Term Utility Plant	
405	Amortization of Other Utility Plant	
406	Amortization of Utility Plant Acquisition Adjustments	
407	Amortization of Property Losses	
-	Amortization of Rate Case Expense	
	Total Amortization Expense(to pg. 8, line 26)	-0-

SEWER PLANT STATISTICS

PLANT VALUATION

1. What method of valuation was used with reference to Sewer Utility Plant in Service appearing on page two, line four: Original Cost, Estimated Cost, Original Cost Study? ORIGINAL COST
2. What percentage of Sewer Utility Plant in Service was recovered, by the developer of the subdivision, through the sale of lots? 52 %
3. If less than one-hundred percent of the utility plant was recovered, please designate what portion (collection lines, treatment plant, ect.) of the plant that represents non-contributed plant 48%  
COLLECTING LINES 166,565 PUMPING 44,209
4. By whom were the books of account audited? NO AUDIT  
What was the date of the last audit? N/A  
If unaudited in the past twelve months, when and by whom is the next audit anticipated? NOT ANTICIPATED

PHYSICAL DATA OF SEWER PLANT

1. Date of construction of original plant 1966
2. Type of treatment process EXTENDED AERATION
3. Date and additional G.P.D. Capacity of subsequent additions to plant \_\_\_\_\_
4. Population for which plant is designed including population equivalent of industrial waste load \_\_\_\_\_

TREATMENT PLANT OPERATING STATISTICS

1. Total gallons received during the year 10,975,000
2. Total gallons received on maximum day 36,000
3. Maximum G.P.D. Capacity of the sewage treatment plant 8,500/DAY
4. Routine maintenance service fee:  
Cost per month \$ \$ 1,675/MONTH  
Contract expires MONTH-TO-MONTH CONTRACT
5. Sludge hauling:  
Cost per load \$ \$ 1,000/LOAD  
Average number of gallons per load 7,500  
Number of loads this year 1

## SEWER PLANT STATISTICS

### CUSTOMER STATISTICS-END OF YEAR

Type	Number of Customers	Bi-Monthly Or Monthly Billing?	Number of Bills Pertaining to Each Type of Customer
Residential:			
Single Family	64	BI-Monthly	64
Apartments/Condominiums	192	BI-MONTHLY	192
Commercial	4	BI-MONTHLY	4
Industrial			
Other (Specify):			
Total	260		260

### INDUSTRIAL CUSTOMERS SERVED

Name And Type Of Industry	Metered Or Estimated Gals.	Pretreatment Of Wastes

### PUMPING STATIONS

Location	Size Of Motor	Type Of Motor	Capacity Gals. Per Day
FOREST LAKE AT SHADOW ROAD	10 H.P.	REPULSION-IND	30,000
RIVER CREEK LEAF STATION	3-7.5 H.P.	REPULSION-IND	15,800

### MAINS (FEET)

Kind Of Pipe (Cast Iron, Vit. clay, concrete)	Diameter Of Pipe	No. Of Feet 1st of Year	Additions	Removed or Abandoned	No. Of Feet End Of Year
CLAY	8"	2,150			2,150
CLAY	10"	1,800			1,800
PVC	4"	3,065			3,065
PVC	8"	1,600			1,600

### SERVICE LATERALS AND STUBS

Number of service laterals owned by the utility, end of year \_\_\_\_\_

Number of stubs as of end of year \_\_\_\_\_

Number of service laterals owned by others \_\_\_\_\_

# EXHIBIT G

## Premier Land Company, LLC (A Kentucky Limited Liability Company)

### Balance Sheet

as of June 30, 2004 and December 31, 2003

ASSETS	2004	2003
Investment property at cost:		
Land	\$ 1,400,000	36,360
Pre-Construction Costs	120,445	51,222
Organizational Costs, net of amortization of Capitalized Interest	2,019	2,019
Loan Costs	24,674	-
Legal costs & professional fees	69,000	-
Net investment in real estate	<u>127,036</u>	<u>14,072</u>
	<u>1,743,174</u>	<u>103,673</u>
Cash and cash equivalents	15,110	952
Accounts receivable and other assets	<u>0</u>	<u>0</u>
	<u>\$ 1,758,285</u>	<u>104,624</u>
<b>LIABILITIES AND MEMBERS' CAPITAL</b>		
Note payable - Ascencia Bank	\$ 1,306,575	-
Note payable to Perdue Builders	-	57,480
Accounts payable, accrued expenses and other liabilities	5,111	-
Members' capital	<u>446,599</u>	<u>47,144</u>
	<u>\$ 1,758,285</u>	<u>104,624</u>



**Premier Land Company, LLC**  
**(A Kentucky Limited Liability Company)**

**Statement of Operations**

*for the periods ended June 30, 2004 and December 31, 2003*

	2004	2003
Revenues:		
Revenues	\$ 0	0
Cost of Goods Sold	<u>0</u>	<u>0</u>
Operating Revenue	<u>0</u>	<u>0</u>
Interest & Other Income	0	0
Total Revenues	<u>0</u>	<u>0</u>
Operating expenses:		
Bank fees	0	135
Marketing	23,275	0
Landscaping	0	2,500
Acctg & Administration	16,130	221
Legal & Professional Services	0	0
Insurance	0	0
Property Taxes	<u>0</u>	<u>0</u>
Total Operating Expenses	<u>39,405</u>	<u>2,855</u>
Operating income	<u>(39,405)</u>	<u>(2,855)</u>
Interest Expense	0	0
Depreciation & Amortization	<u>0</u>	<u>0</u>
Net income	<u>\$ (39,405)</u>	<u>(2,855)</u>

**Premier Land Company, LLC  
(A Kentucky Limited Liability Company)**

**Statement of Members' Equity**

*for the periods ended June 30, 2004 and December 31, 2003*

	Tinnell Properties, Inc.	Perdue Builders, Inc.	Total
Balance, December 31, 2002	\$ 0	\$ 0	0
Net income for the period	(1,428)	(1,428)	(2,856)
Contributions	25,000	25,000	50,000
Distributions	0	0	0
Balance, December 31, 2003	<u>\$ 23,572</u>	<u>\$ 23,572</u>	<u>47,144</u>
Net income for the period	(19,702)	(19,702)	(39,405)
Contributions	226,930	226,930	453,860
Distributions	(7,500)	(7,500)	(15,000)
Balance, June 30, 2004	<u>\$ 223,300</u>	<u>\$ 223,300</u>	<u>446,599</u>

**Premier Land Company, LLC**  
**(A Kentucky Limited Liability Company)**

**Statement of Cash Flows**

*for the periods ended June 30, 2004 and December 31, 2003*

	2004	2003
Operating activities:		
Net income	\$ (39,405)	(2,855)
Adjustments to reconcile net income to cash provided by operating activities:		
Depreciation and amortization	0	0
Changes in assets and liabilities:		
Accounts receivable and other assets	0	0
Accounts payable, accrued expenses and other liabilities	5,111	0
Net cash provided in operating activities	<u>(34,294)</u>	<u>(2,855)</u>
Cash flows from investing activities:		
Increase in asset additions	(1,639,502)	(103,673)
Increase in mortgage balances	1,249,095	57,480
Increase in deferred lease and loan costs	0	0
Net cash used in investing activities	<u>(390,407)</u>	<u>(46,193)</u>
Cash flows from financing activities:		
Contributions by Members	453,860	50,000
Distributions to Members	(15,000)	0
Net cash provided in financing activities	<u>438,860</u>	<u>50,000</u>
Net increase in cash	14,159	952
Cash and cash equivalents, beginning of period	<u>952</u>	<u>0</u>
Cash and cash equivalents, end of period	<u>\$ 15,111</u>	<u>952</u>



EXHIBIT H

**SHADOWWOOD WASTE ENVIRONMENTAL, LLC**  
CERTIFICATE OF INCUMBENCY

We, the undersigned, being the individuals and/or representatives of entities who comprise all of the Members and Managers of Shadowwood Waste Environmental, LLC, a Kentucky Limited Liability Company, (the "Company"), hereby certify as follows:

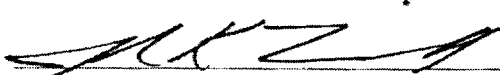
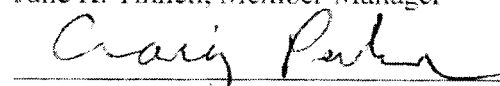
1) That the persons listed below are all of the individuals who have any right, title or interest in and to the Company.

2) That the persons listed below have been duly appointed and authorized to execute any and all deeds, notes, mortgages, instruments of indebtedness, contracts, affidavits, closing statements and other documents and instruments pertaining to the Company or any Property owned by the Company. Any person dealing with the Company shall be entitled to rely fully upon such deeds, notes, mortgages, instruments of indebtedness, contracts, affidavits, closing statements and other documents and instruments pertaining to the Company and/or the Property signed by Julie K. Tinnell and/or Craig Perdue.

<u>Name</u>	<u>Office/Title</u>	<u>Signature</u>
<u>Julie K. Tinnell</u>	Member-Manager	
<u>Craig Perdue</u>	Member-Manager	

3) That the document attached hereto as Exhibit A is a true, accurate and complete copy of the Operating Agreement between the Members of Shadowwood Waste Environmental, LLC, a Kentucky Limited Liability Company.

IN WITNESS WHEREOF, We have hereunto signed our names this 8<sup>th</sup> day of September, 2004.

  
Julie K. Tinnell, Member-Manager  
  
Craig Perdue, Member-Manager

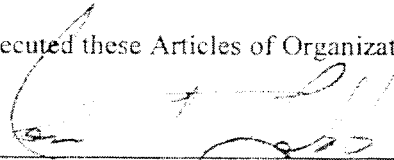
**SHADOWWOOD WASTE ENVIRONMENTAL, LLC  
ARTICLES OF ORGANIZATION AND CONSENT OF REGISTERED AGENT**

To the Secretary of State, Commonwealth of Kentucky:

The undersigned organizer, age eighteen or older, as Organizer of a Limited Liability Company under the Kentucky Limited Liability Company Act does hereby adopt the following Articles of Organization for such Company.

1. **NAME.** The name of this Company is Shadowwood Waste Environmental, LLC.
2. **REGISTERED OFFICE AND AGENT.** The street address of the initial Registered Office is 13404 Creekview Road, Louisville, Kentucky 40059, and the initial Registered Agent at that Office is Julie K. Tinnell.
3. **BUSINESS ADDRESS.** The business mailing address of the initial principal office of the Company shall be 13404 Creekview Road, Louisville, Kentucky 40059.
4. **MEMBERS.** The Company has at least two members.
5. **MANAGERS.** The Company shall be managed by its Members.
6. **DURATION OF COMPANY.** The latest date on which this Company is to dissolve is December 31, 2096.
7. **ORGANIZERS.** The Organizer of this Company is James T. Lobb.
8. **OPERATING AGREEMENT.** The affairs of the Company and Members' Interests in the Company shall be governed by a written Operating Agreement.

IN WITNESS WHEREOF, the Organizer has duly executed these Articles of Organization this 21<sup>st</sup> day of June, 2004.



James T. Lobb, Organizer

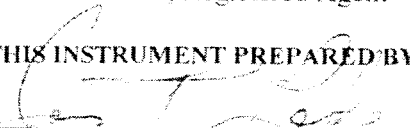
The undersigned, having been named in the Articles of Organization of Shadowwood Waste Environmental, LLC ("Company") as the Registered Agent of the Company, hereby consents to serve in that capacity.



Julie K. Tinnell, Registered Agent

Date: June 21, 2004

THIS INSTRUMENT PREPARED BY:



James T. Lobb, Esq.  
Weber & Rose, PSC  
400 W. Market St., Suite 2400  
Louisville, Kentucky 40202

**0588938.06**

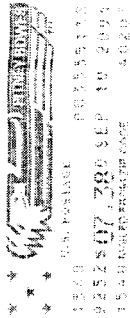
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PAID

SEP 13 2004

PUBLIC SERVICE  
COMMISSION



FAULKNER  
HINTON  
ASSOCIATES

MR THOMAS DORMAN  
EXEC DIRECTOR  
PUBLIC SERVICE COMM  
211 SOWER BLVD  
FRANKFORT KY 40602-0615

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Covington, KY 40203