

TO: THE BOARD OF DIRECTORS OF NEW SWEDEN MUNICIPAL UTILITY DISTRICT NO. 1, TEXAS, AND TO ALL OTHER INTERESTED PERSONS:

Notice is hereby given that the Board of Directors of New Sweden Municipal Utility District No. 1 will hold a special meeting, on Thursday, March 9, 2023, at 12:00 p.m., outside the boundaries of the District, at the offices of McLean & Howard, L.L.P., 4301 Bull Creek Road, Suite 150, Austin, Texas 78731.

Public Comment:

Public comment will be allowed during the Public Comment agenda item. Members of the public that desire to provide public comment may do so.

Meeting Packet:

A copy of the meeting packet is available at the following website: <https://txdistrictinfo.org>

Meeting Topics:

The meeting will be held for the following purposes:

1. Public Comment
2. Discuss, consider and take action regarding approval of the Board's November 14, 2022 meeting minutes.
3. Discussion and possible action relating to Board of Directors matters:
 - A. Accept resignation of Director Connie Clark.
 - B. Approve appointment of new director to fill vacancy.
 - C. Approve Statement of Officer, Oath of Office and Director Bond for new director, and such other action as may be necessary for new director to assume the duties of office.
 - D. Elect officers of the District.
4. Discuss, consider and take action on District Engineer's Report regarding the following matters:
 - A. Plans and Specifications, Approvals and Authorizations to Bid;
 - B. Construction Contract Awards;
 - C. Construction Pay Estimates;
 - D. Construction Change Orders;
 - E. Acceptance of Facilities; and
 - F. Other engineering matters.
5. Water Service Matters:

- a. Discussion and possible action relating to status of water transmission line by Aqua Water Supply Corporation for wholesale water services; and
 - b. Discussion and possible action relating to decertification of lands within the District from the certificated water service territory of Aqua Water Supply Corporation.
6. Discussion and possible action relating to approval of engagement of Jackson Walker LLP as special legal counsel for acquisition of wastewater easements.
 7. Discussion and possible action relating to approval of engagement of Kokel-Oberrender-Wood Appraisal, Ltd.
 8. Discussion and possible action relating to approval of updated rate schedule for District engineering services by Jones-Heroy & Associates, Inc.
 9. Discussion and possible action relating to adoption of Resolution Authorizing District Engineer to execute Pay Applications and Change Orders upon approval of the Board of Directors.
 10. Discussion and possible action relating to approval of Contract with Travis County for Tax Appraisal and Collection Services.
 11. Discussion and possible action relating to approval of Wholesale Wastewater Agreement with the City of Pflugerville.
 12. Discussion and possible action relating to approval of Amended and Restated Development Agreement with the City of Pflugerville.
 13. Discussion and Possible Action regarding payment of bills and invoices.
 14. Report by Developer regarding development activities.
 15. Discussion and Possible Action regarding Establishment of Regular Meeting Dates.

Anthony S. Corbett

Attorney for the District

The Board of Directors may go into Executive Session if necessary, pursuant to the applicable section of Subchapter D, Chapter 551, Texas Government Code, of the Texas Open Meetings Act, on any of the above matters. No final action, decision or vote will be taken on any subject or matter in Executive Session.

The District is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call 512-328-2008 for further information.

MINUTES OF THE SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF
NEW SWEDEN MUNICIPAL UTILITY DISTRICT NO. 1
November 14, 2022

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

The Board of Directors of New Sweden Municipal Utility District No. 1 (the “District”) held a special meeting, open to the public, on Monday, November 14, 2022, outside the boundaries of the District, at the offices of McLean & Howard, L.L.P., located at 4301 Bull Creek Road, Suite 150, Austin, Texas 78731. Notices of the time, place and the subject of the meeting, and the actions to be taken at the meeting, were posted at the places and for the time required by the laws of the State of Texas.

The roll was called of the directors of the Board, to-wit:

Kristen Alexandrov	President
Connie Clark	Vice President
Amy Martin	Secretary
Craig Couch	Assistant Secretary
Josh Rolfe	Assistant Secretary

and all of said persons were present except Directors Clark and Couch, thus constituting a quorum.

Also participating were Brian Bott of Bott Douthitt, PLLC; Thomas Anker of Lennar Homes; Lauren Smith from Specialized Public Finance Group, Inc.; Prakriti Ghimire from Jones-Heroy & Associates, Inc.; and Anthony S. Corbett and Lauren Hughes of McLean & Howard, LLP.

1. The Board first requested public comments. No public comments were received.
2. The Board considered approval of the minutes from the August 12, 2022, meeting of the Board of Directors. After discussion, Director Alexandrov made a motion to approve the minutes from the August 12, 2022, meeting as presented. Director Rolfe seconded the motion, which the Board passed unanimously (3-0).
3. Next, the Board of Directors of the District considered matters relating to the November 8, 2022, Confirmation and Bond Election. After discussion, Director Rolfe made a motion to adopt the Order Canvassing the Returns for the November 8, 2022, Confirmation and

Bond Election. Director Alexandrov seconded the motion, which the Board passed unanimously (3-0). A copy of the Order Canvassing the Returns is attached as an exhibit to these minutes.

4. The Board then considered the Certificates of Election, Oaths of Office and Statements of Officers for the newly elected Directors. After discussion, Director Martin made a motion to approve the Certificates of Election, Oaths of Office and Statements of Officers for the newly elected directors. Director Alexandrov seconded the motion, which the Board passed unanimously (3-0). Copies of the oaths, statements and certificates are attached as exhibits to these minutes.

5. The Board then considered the election of officers. After discussion, Director Rolfe made a motion to keep all officer positions unchanged. Director Alexandrov seconded the motion, which the Board passed unanimously (3-0).

6. The Board then considered adoption of a Resolution Approving Actions by Temporary Board of Directors. After discussion, Director Alexandrov made a motion to approve the Resolution Approving Actions by Temporary Board of Directors. Director Martin seconded the motion, which the Board passed unanimously (3-0). A copy of the Resolution is attached as an exhibit to these minutes.

7. Next, Director Rolfe made a motion to authorize legal counsel to prepare and file District Registration Forms. Director Alexandrov seconded the motion, which the Board passed unanimously (3-0).

8. The Board then considered approval of a District Information Form. After discussion, Director Alexandrov made a motion to approve the District Information Form. Director Martin seconded the motion, which the Board passed unanimously (3-0). A copy of the District Information Form is attached as an exhibit to these minutes.

9. The Board then received a report from Mr. Anker regarding the status of development activities and approvals within the District. No action was taken by the Board in response to the report.

10. Mr. Bott provided the Bookkeepers Report, including invoices recommended for payment. After discussion, Director Rolfe moved that the Board approve the Bookkeeper's Report and the payment of bills and invoices as presented. The motion was seconded by Director Martin and passed unanimously (3-0). Copies of the approved bills and invoices are attached as exhibits to these minutes.

11. By unanimous acclamation, the Board adjourned at approximately 11:20 a.m.

(SEAL)

Secretary, Board of Directors

Form 2204 - Oath of Office (General Information)

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

An Oath of Office that is required to be filed with the Office of the Secretary of State is considered filed once it has been received by this office. The Oath of Office may be administered to you by a person authorized under the provisions of Chapter 602 of the Texas Government Code. Authorized persons commonly used to administer oaths include notaries public and judges.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569. If faxed, the original Oath should also be mailed to the appropriate address above.

Email: Scanned copies of the executed Oath may be sent to register@sos.texas.gov. If sent by email, the original Oath should also be mailed to the appropriate address above.

NOTE: *Do not have the Oath of Office administered to you before executing and filing the Statement of Officer (Form 2201 – commonly referred to as the “Anti-Bribery Statement”) with the Office of the Secretary of State.*

Commentary

Pursuant to art. XVI, Section 1 of the Texas Constitution, the Oath of Office *may not* be taken until a Statement of Officer (see Form 2201) has been subscribed to and, as required, filed with the Office of the Secretary of State. Additionally, gubernatorial appointees who are appointed during a legislative session *may not* execute their Oath until after confirmation by the Senate. Tex. Const. art. IV, Section 12.

Officers Required to File Oath of Office with the Secretary of State:

Gubernatorial appointees

District attorneys

Appellate and district court judges

Officers appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas

Associate judges appointed under subchapter B or C, chapter 201 of the Texas Family Code

Directors of districts operating pursuant to chapter 36 or 49 of the Texas Water Code file a duplicate original of their Oath of Office within 10 days of its execution. Texas Water Code, Sections 36.055(d) and 49.055(d)

Officers Not Required to File Oath of Office with the Secretary of State:

Members of the Legislature elected to a *regular* term of office will have their Oath of Office administered in chambers on the opening day of the session and recorded in the appropriate Journal. Members elected to an *unexpired* term of office should file their Oath of Office with either the Chief Clerk of the House or the Secretary of the Senate, as appropriate.

All other persons should file their Oaths locally. Please check with the county clerk, city secretary or board/commission secretary for the proper filing location.

As a general rule, city and county officials do not file their oath of office with the Secretary of State—these officials file at the local level. The Legislature amended the Texas Constitution, Article 16, Section 1, in November 2001 to no longer require local level elected officials to file with our office.

The Office of the Secretary of State does NOT file Statements or Oaths from the following persons: Assistant District Attorneys; City Officials, including City Clerks, City Council Members, Municipal Judges, Justices of the Peace, and Police/Peace Officers; Zoning/Planning Commission Members; County Officials, including County Clerks, County Commissioners, County Judges (*except County Court of Law Judges who file with the Elections Division*), County Tax Assessors, and District Clerks; and Officials of Regional Entities, such as, Appraisal Review Districts, Emergency Service Districts, and School Districts (ISD's). Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and attorney general opinions.

All state or county officers, other than the governor, lieutenant governor, and members of the legislature, who qualify for office, are commissioned by the governor. Tex. Gov't Code, Section 601.005. The Secretary of State performs ministerial duties to administer the commissions issued by the governor, including confirming that officers are qualified prior to being commissioned. Submission of this oath of office to the Office of the Secretary of State confirms an officer's qualification so that the commission may be issued.

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.texas.gov.

Revised 9/2017

Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334
FAX 512-463-5569
Filing Fee: None



OATH OF OFFICE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, _____, do solemnly swear (or affirm), that I will faithfully
execute the duties of the office of _____ of
the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws
of the United States and of this State, so help me God.

Signature of Officer

Certification of Person Authorized to Administer Oath

State of _____

County of _____

Sworn to and subscribed before me on this _____ day of _____, 20____.

(Affix Notary Seal,
only if oath
administered by a
notary.)

Signature of Notary Public or
Signature of Other Person Authorized to Administer An
Oath

Printed or Typed Name

Form 2201 - Statement of Officer (General Information)

The attached form is designed to meet minimal constitutional filing requirements pursuant to the relevant provisions. *This form and the information provided are not substitutes for the advice and services of an attorney.*

Execution and Delivery Instructions

A Statement of Officer required to be filed with the Office of the Secretary of State is considered filed once it has been received by this office.

Mail: P.O. Box 12887, Austin, Texas 78711-2887.

Overnight mail or hand deliveries: James Earl Rudder Officer Building, 1019 Brazos, Austin, Texas 78701.

Fax: (512) 463-5569.

Email: Scanned copies of the executed Statement may be sent to register@sos.texas.gov

NOTE: The Statement of Officer form, commonly referred to as the “Anti-Bribery Statement,” must be executed and filed with the Office of the Secretary of State before taking the Oath of Office (Form 2204).

Commentary

Article XVI, section 1 of the Texas Constitution requires all elected or appointed state and local officers to take the official oath of office found in section 1(a) and to subscribe to the anti-bribery statement found in section 1(b) before entering upon the duties of their offices.

Elected and appointed state-level officers required to file the anti-bribery statement with the Office of the Secretary of State include members of the Legislature, the Secretary of State, and all other officers whose jurisdiction is coextensive with the boundaries of the state or who immediately belong to one of the three branches of state government. Questions about whether a particular officer is a state-level officer may be resolved by consulting relevant statutes, constitutional provisions, judicial decisions, and attorney general opinions. For more information, see Op. Tex. Att’y Gen. No. JC-0575 (2002) (determining the meaning of “state officer” as it is used in Article XVI).

Effective September 1, 2017, Senate Bill 1329, which was enacted by the 85th Legislature, Regular Session, amended chapter 602 of the Government Code to require the following judicial officers and judicial appointees to file their oath and statement of officer with the secretary of state:

Officers appointed by the supreme court, the court of criminal appeals, or the State Bar of Texas; and
Associate judges appointed under Subchapter B or C, Chapter 201, Family Code.

Local officers must retain the signed anti-bribery statement with the official records of the office. *As a general rule, city and county officials do not file their oath of office with the Secretary of State— these officials file at the local level. The Legislature amended the Texas Constitution, Article 16, Section 1, in November 2001 to no longer require local level elected officials to file with our office. **The Office of the Secretary of State does NOT file Statements or Oaths from the following persons:** Assistant District Attorneys; City Officials, including City Clerks, City Council Members, Municipal Judges, Justices of the Peace, and Police/Peace Officers; Zoning/Planning Commission Members; County Officials, including County Clerks, County Commissioners, County Judges, County Tax Assessors, and District Clerks; and Officials of Regional Entities, such as, Appraisal Review Districts, Emergency Service Districts, and School Districts (ISD’s).*

Questions about this form should be directed to the Government Filings Section at (512) 463-6334 or register@sos.texas.gov

Revised 05/2020

Form #2201 Rev. 05/2020
Submit to:
SECRETARY OF STATE
Government Filings
Section P O Box 12887
Austin, TX 78711-2887
512-463-6334
512-463-5569 - Fax
Filing Fee: None



STATEMENT OF OFFICER

Statement

I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Title of Position to Which Elected/Appointed: _____

Execution

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.

Date: _____

Signature of Officer

March 9, 2023

To: Board of Directors,
New Sweden Municipal Utility District No. 1

From: Ken Heroy, P. E.
Jones – Heroy & Associates, Inc.

Subject: New Sweden Municipal Utility District No. 1 (District);
Engineers Report for period ending March 1, 2023
JHA No. 0076-001

Engineering Matters: We are pleased to present the following update for projects within the District.

Booster Station (JHA No. 0076-005):

We have reviewed and approved the construction plans for this project. The plans are currently being updated.

Project Tracking:

Project	JHA #	Contract Award	MUD Accepted
Booster Pump Station	0076-005		

December 9, 2022

Via Email

New Sweden MUD No. 1
c/o Anthony S. Corbett
McLean & Howard, L.L.P.
4301 Bull Creek Road, Ste. 150
Austin, Texas 78731
tcorbett@mcleanhowardlaw.com

Dear Mr. Corbett:

We are honored that you have asked us to represent New Sweden MUD No. 1 in connection with the assistance in the easement acquisition and condemnation of property, and we are pleased to do so. This letter summarizes our billing and payment arrangements, and the terms of our agreement.

COOPERATION AND PRESERVATION. In order to provide effective legal services to you, it is essential that you disclose to us fully and accurately all material facts pertaining to our engagement and inform us of all developments, and that you give us prompt instructions. Additionally, you will undertake to preserve relevant documents and materials, including electronic information that may be necessary for our representation of you.

FEES. Our fees are determined primarily on the basis of our time at current hourly rates. Our rates vary with experience and seniority and are adjusted by us from time to time, normally once a year. Unless we otherwise agree, the rates we charge will change at that time. We expect that I, Noah Galton and Lindsay Killeen will be the lawyers principally involved in this matter and our current hourly rates are \$850.00, \$715.00, and \$615.00 respectively. In addition, we will discount our hourly rates, as adjusted by us from time to time, by 10%. Any estimates of fees and expenses we may give are merely approximations and are often based on many circumstances not within our control. Such estimates are not binding and the fees and expenses owed will be as set forth in our statements to you.

EXPENSES. Costs and expenses related to our legal services will be included in our statements. Costs may include travel expenses, messenger charges, filing and recording fees, and other costs. We intend to bill such expenses to you at our cost. Certain other expenses, such as photocopying, computerized research and long distance, will be billed in accordance with our standard schedule of charges. For certain substantial expenses, such as expert, mediation and arbitration fees, e-discovery, court and deposition costs and travel expenses, we may ask that you be responsible for paying them directly.

AGREEMENT TO PAY. Our statements are rendered monthly and are due upon receipt. If a question concerning a statement arises, we ask that it be raised in writing within 30 days. You agree to timely payment of our statements. A statement not paid within 30 days of receipt is overdue and will be subject to interest on the unpaid balance at a rate of 12% per annum, but in no event at a rate exceeding the amount allowed by law. If our statements are not timely paid, we reserve the right to suspend our services until satisfactory payment arrangements are made, or if necessary, to terminate our services, subject to applicable legal requirements. Payments shall be performable and due in Dallas County.

CLIENT AND SCOPE OF REPRESENTATION. In this engagement, our representation is solely of New Sweden MUD No. 1. Our engagement is limited to the matter described above and if we agree to perform additional legal services, this letter will apply to such services. Unless specifically agreed to by us in a letter like this one, we will not be representing other related persons or entities, including any subsidiaries, affiliates or shareholders. In addition, we will provide only legal advice and services, and not financial, accounting, business or other advisory services.

TERMINATION. New Sweden MUD No. 1 is free to terminate this engagement at any time for any reason, as are we. If this engagement is terminated, New Sweden MUD No. 1 remains responsible for the payment of fees and expenses incurred until termination, and if court approval is required, both of us will cooperate in obtaining it.

CONTACT PERSON. Unless you otherwise direct, I will be your principal contact. However, if you wish to address any concerns regarding this engagement with someone other than me, please feel free to contact Wade Cooper, our Managing Partner.

CONFLICTS. Please be aware that Jackson Walker represents many other companies and individuals. It is possible that while we are representing you, some of our present or future clients will have disputes or transactions with you. By entering into this engagement letter, you agree that Jackson Walker may continue to represent, or may undertake in the future to represent, existing or new clients in any matter that is not substantially related to our work for you in this matter, even if the interests of such clients in those other matters are directly adverse to yours. We agree, however, that your prospective consent shall not apply in any instance where, as a result of representing you, we have obtained proprietary or other material, confidential, non-public information, that, if known to such other client, could be used by such client to your material disadvantage in the other matter.

GUARANTEE DISCLAIMER. We will do our best to provide you with the legal services reasonably necessary to achieve a result satisfactory to you. However, the outcome of all transactions or lawsuits is subject to uncertainties and risks, and we make no promises, warranties or guarantees to you concerning the outcome of our legal representation. Any statements we may make are expressions of opinion only.

CONCLUSION AND DISPOSITION OF DOCUMENTS. Our representation of you will terminate when we send the final statement for services rendered. Upon the conclusion of this matter, you will promptly advise us which, if any, documents you wish us to return to you. You agree that we need not return or provide any electronic information, except upon payment of

our reasonable costs. We may retain copies for our records. We will retain or dispose of any documents, including electronic information, in accordance with our record retention policy then in effect.

ONLY AGREEMENT. This written agreement supersedes all prior oral or written agreements and may be amended or changed only in writing signed by both parties.

Once again, we are very pleased to represent you. Please confirm acceptance of the terms of our engagement by signing the enclosed copy of this agreement in the space provided below and returning it to me.

Sincerely,



Robert Neblett

Agreed to and accepted this _____ day of _____, 2022.

New Sweden MUD No. 1

By: _____

Title: _____

THE STATE BAR OF TEXAS INVESTIGATES AND PROSECUTES PROFESSIONAL MISCONDUCT COMMITTED BY TEXAS ATTORNEYS. ALTHOUGH NOT EVERY COMPLAINT AGAINST OR DISPUTE WITH A LAWYER INVOLVES PROFESSIONAL MISCONDUCT, THE STATE BAR'S OFFICE OF GENERAL COUNSEL WILL PROVIDE YOU WITH INFORMATION ABOUT HOW TO FILE A COMPLAINT. PLEASE CALL 1-800-932-1900 TOLL-FREE FOR MORE INFORMATION.

ATTACHMENT A

JONES - HEROY & ASSOCIATES, INC.

TYPICAL COMPENSATION FOR PROFESSIONAL SERVICES ON TIME AND MATERIALS AND ESTIMATED FEE BASIS

Professional services performed on a time and material basis and estimated fee basis will be based on each employee's hourly rate, which is based on level of experience and expertise. The current rates of various staff categories are as follows and are updated from time to time:

Staff Category	Hourly Rate
President / Project Engineer	\$ 275.00 per hour
Associate / Senior Project Manager	\$ 240.00 per hour
Project Manager/ Project Engineer	\$ 200.00 per hour
Graduate Engineer	\$ 160.00 per hour
Technician	\$ 135.00 per hour
Administrative	\$ 115.00 per hour

Reimbursable expenses such as copies, delivery charges, and mileage will be billed at JHA's direct cost.

RESOLUTION AUTHORIZING DISTRICT ENGINEER TO EXECUTE PAY APPLICATIONS AND CHANGE ORDERS AFTER APPROVAL BY BOARD OF DIRECTORS

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

WHEREAS, New Sweden Municipal Utility District No. 1 (the “*District*”) is a conservation and reclamation district of the State of Texas, created under Article XVI, Sec. 59 of the Texas Constitution by order of the Texas Commission on Environmental Quality (“*TCEQ*”), and the District operates under Chapters 49 and 54 of the Texas Water Code, as amended; and

WHEREAS, the Board of Directors desires to delegate limited authority to the District Engineer to execute change orders and pay applications for public infrastructure improvement projects in order to expedite the completion of such infrastructure projects. NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NEW SWEDEN MUNICIPAL UTILITY DISTRICT NO. 1 THAT:

Section 1. The matters and facts recited in the preamble to this Resolution are found to be true and correct and the same are incorporated herein as a part of this Resolution.

Section 2. The Board of Directors hereby authorizes the District Engineer to execute pay applications and change orders on behalf of the District for public infrastructure improvement projects. The foregoing authority may be exercised only after approval of the pay application and change orders by the Board of Directors of the District.

Section 3. Upon approval and execution of this Resolution, a copy shall be retained in the permanent records of the District.

PASSED AND APPROVED the _____ day of _____, 2023.

President
Board of Directors

ATTEST:

Secretary
Board of Directors

(SEAL)

**AGREEMENT REGARDING WHOLESALE
WASTEWATER SERVICE**

THIS AGREEMENT REGARDING WHOLESALE WASTEWATER SERVICE (“Agreement”) is made by and between the City of Pflugerville, a Texas home rule city (the “City”) and New Sweden Municipal Utility District No. 1 (the “District”), a municipal utility district organized under the laws of the State of Texas.

RECITALS

- A. The District is located in the extraterritorial jurisdiction of the City and within the area that the City provides wholesale wastewater services (“Service”).
- B. The City is willing to provide Service to the District.
- C. The City and District desire to set forth in writing the terms and conditions for wastewater service from the City to the District.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the parties set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**I.
WHOLESALE WASTEWATER
SERVICE FROM PFLUGERVILLE FOR SERVICE AREA**

1.01 Agreement to Provide Wholesale Wastewater Service. Subject to the terms and conditions of this Agreement and all duly adopted regulations and ordinances of the City or any governing authority having jurisdiction over the Service, the City agrees to provide Service to District. Subject to the terms and conditions of this Agreement, the District accepts the provision Service from the City.

1.02 Description of Property to Receive Service from the City. The Service provided under this Agreement shall include the tracts of land containing an area of approximately 452 acres, more or less, as shown on Exhibit “A” attached hereto (the “Service Area”). A portion of the Service Area is within the City’s Certificate of Convenience and Necessity (“CCN”).

1.03 Maximum Limit of Service From the City. The Service from the City to the District for the Service Area will be limited to a maximum of 1,045 Living Unit Equivalents. As utilized herein, the term “Living Unit Equivalent” or “LUE” means a unit of measurement representing the quantity of water consumed and wastewater generated on an average daily basis from a single-family, detached residence of average size and occupancy or whatever definition is written in the City Ordinances at the time that this Agreement is interpreted. Nothing herein

Commented [BP1]: David/Tom - Can you please confirm the LUE count so we are consistent in both?

shall prevent the parties from contracting for or agreeing to additional wastewater service pursuant in separate written agreements, however, neither party is obligated to enter into such separate agreements.

1.04 Minimum Criteria for Service. Wastewater service provided by the City to the District for the Service Area shall be sufficient to collect, transport, and treat all wastewater from the Service Area subject to the maximum capacity limitation set forth in Section 1.03 above, the further terms and conditions of this Agreement, and all applicable rules and regulations of governmental agencies having jurisdiction over the services provided.

1.05 Conditions Precedent to Service. The Parties specifically agree that the commencement of Service to the Service Area shall be subject to the following conditions precedent:

(i) The lands to be furnished service have been final platted by all governmental entities with relevant jurisdiction, unless a plat is not required by applicable laws and ordinances;

(ii) Approval of this Agreement by the Pflugerville City Council;

(iii) Construction of wastewater collection facilities (“Internal Facilities”) within the Service Area;

(iv) the portion of the Cottonwood Interceptor within the District, Wastewater Lift Station Project and Wastewater Force Main Project have been completed by the Developer in accordance with plans and specifications approved by City, are operational, and have been conveyed to City in accordance with the terms and conditions of the Wastewater Facilities Construction and Conveyance Agreement;;

(v) District’s compliance with all obligations provided for in the Wastewater Facilities and Conveyance Agreement.

(vi) The Interconnection Facilities and any new or replacement District Internal Facilities, if any, constructed after the effective date of this Agreement within the Service Area shall be built in accordance with the City’s Design Criteria and Standards, TCEQ Design Criteria for Sewage Systems in Chapters 309, 312, and 317 of the Texas Administrative Code, this Agreement, and other applicable law;

(vii) final inspection and approval by City of the Interconnection Facilities required to transport wastewater to the agreed points of connection, as defined in Section 1.06 of this Agreement, to the City’s System;

(viii) payment of all fees, including inspection fees to the City, costs, attorneys’ fees, and consulting fees associated with providing Service to the Service Area;

(ix) written authorization from the City Manager acknowledging that District has satisfied all conditions and requirements of this Agreement for connection to the

City's System and commencement of Service, and that Service to District shall commence, which authorization shall not be unreasonably withheld or delayed.

(b) The City shall commence Service to District within eight business days after satisfaction of the conditions set forth in this Section.

1.06 Manner of Connection. The District's Internal Facilities will be connected to the City System by the District's construction of the Interconnection Facilities at the Points of Connection. The District will ensure that the Interconnection Facilities and Internal Facilities are constructed by the District in compliance with the approved plans and specifications, with such plans and specifications being designed in accordance with applicable regulations and construction standards of the City and the Texas Commission on Environmental Quality ("TCEQ"). In the event that there is any conflict between these regulations, standards and specifications, the more stringent regulations, standards and specifications will apply.

1.07 Concept Plan. The Parties agree that the City's obligation to provide retail wastewater service to the Property shall be subject to development of the Property in accordance with the Concept Plan. The City hereby approves the Concept Plan for all purposes, and the Concept Plan attached hereto shall replace the Concept Plan attached to the Development Agreement since such Concept Plan did not contemplate the Wastewater Lift Station Project or Wastewater Force Main Project. Developer specifically acknowledges and agrees that the Concept Plan may not be amended without the prior written consent of the City. Notwithstanding the foregoing, the Parties acknowledge that the Project comprises a significant land area and its development will occur in phases over a number of years. As a result, some revisions to the Concept Plan may be necessary. The City's Planning Director may approve "Minor Amendments" to the Concept Plan, but City Council Approval is required for "Major Amendments". For purposes of this Agreement, "Minor Amendment" are: (i) revisions that do not materially change the Concept Plan, as determined by the City's Planning Director in his or her reasonable discretion; and (ii) revisions to be made at the direction or request of the City for engineering purposes. Major Amendments are all amendments to the Concept Plan that do not meet the definition of Minor Amendments. Amendments to the Concept Plan shall not be considered a waiver of Developer's vested rights as long as the Project is not dormant pursuant to Chapter 245 of the Texas Local Government Code and has not changed to the point it would not be the same "project" pursuant to Chapter 245 of the Texas Local Government Code or caselaw interpreting Chapter 245.

1.08

1.09 Minimization of Inflow and Infiltration. The District agrees to have the District operator inspect, maintain, monitor and operate all Internal Facilities and Interconnection Facilities as often as necessary for the purpose of ensuring that inflow and infiltration into the Internal Facilities and the Interconnection Facilities is minimized and the quantity of wastewater that the City must process for as part of the Service is minimized.

1.10 Curtailment of Service. District agrees that, if wastewater service is curtailed within the City or to other customers of the City's System, the City may impose a like curtailment on Service delivered to District. The City shall impose such curtailments in a

nondiscriminatory fashion. The parties agree that it will not be a breach of this Agreement if the City curtails Service completely in the event of a maintenance operation or emergency for a reasonable period necessary to complete such maintenance operations or repairs or respond to an emergency circumstance. City shall use reasonable efforts to minimize the duration of the period of curtailment and, if the curtailment is due to the sole fault of the City, shall pay for or provide facilities and equipment necessary to pump and haul all District wastewater to alternate treatment facilities (“Pump and Haul”) during the curtailment period. If the curtailment occurs due to circumstances not the sole fault of the City, then the District shall be responsible for paying for Pump and Haul during the curtailment period.

1.11 Monthly Billing. Wastewater billings during the provision of Service will be determined based on the number of wastewater LUEs connected to the Internal Facilities.

(a) Each monthly bill shall contain a statement of the number of LUEs connected during the billing period, the rate on which the bill is calculated, and any other fees or administrative charges included in the bill. The District will timely make payment to the City in accordance with the City’s utility service requirements and regulations as amended from time to time.

(b) The City’s wholesale wastewater rates may be subject to change from time to time by the City Council of the City as outlined in Section 1.20 below; provided, however, the initial rate under this Agreement is \$41.67 per LUE per month, and the monthly rate shall not fall below the \$41.67 per month per LUE rate.

1.12 Pflugerville Policies and Ordinances Applicable to Service. Unless otherwise provided in this Agreement, the Service provided from the City to the Service Area under this Agreement shall not be unreasonably discriminatory and shall be consistent with the policies and ordinances of the City applicable to the Service.

1.13 Rates Sufficient to Cover Pflugerville’s Costs. The monthly rate stated in Section 1.11 is currently sufficient to cover all of the City’s cost of treatment of the wastewater from the Service Area. Should the City determine through a cost-of-service study that a rate increase is necessary, the District agrees to establish retail rates sufficient to cover any and all of the City’s costs of treatment of the wastewater from the Service Area. The City may initiate a cost-of-service study on an annual basis. The District will increase retail rates within thirty (30) day following an increase in rates by the City Council of the City to ensure that the City does not have to pay for the costs of treatment of the wastewater from the Service Area. The District will also reimburse the City as soon as possible, and no later than sixty (60) days following an increase in rates by the City Council of the City for any costs incurred by the City necessitating the rate increase prior to the District raising retail rates.

1.14 Service Not Assignable or Transferable. The District may not assign this Agreement, in whole or in part, to property outside of the Service Area.

II. CAPITAL RECOVERY FEES AND OTHER FEES

2.01 Pflugerville Capital Recovery Fees for the Service Area. The District, developers within the District, or District customers will pay to the City a Wastewater Capital Recovery Fee that is equal to the City's applicable Impact Fee for wastewater connections within the platted subdivision where the connection is located, with such Impact Fees being listed on the City's Master Fee Schedule. The Capital Recovery Fee shall be paid to the City for each connection at the time of submittal of a building permit application for the connection. Upon payment of the Wastewater Capital Recovery Fee, the District shall have a guarantee of service for each LUE for which a Wastewater Capital Recovery Fee has been paid.

2.02 District and City Fees. The builders or District customers shall be required to pay all applicable City and District inspection fees, plan review fees, and other fees and charges for services, labor, and materials provided by the City and the District, respectively, in aid of the provision of Service under this Agreement in the event such fees are incurred after the Impact Fee has been paid.

III. TERM AND TERMINATION

3.01 Term. Unless terminated by mutual agreement of the parties hereto, this Agreement will continue in full force and effect for a period of fifty (50) years from the Effective Date hereof.

3.02 Termination. If either Party breaches any term or condition of this Contract, the non-breaching Party may provide the breaching Party with a notice of the breach within sixty (60) days of discovery of the breach by the non-breaching Party. Upon notice of breach, the breaching Party shall have sixty (60) days to cure the breach. If the breaching Party does not cure the breach within the sixty (60) days, the non-breaching Party shall have all rights at law and in equity, including the right to enforce specific performance of this Contract by the breaching Party, the right to perform the obligation in question and to seek restitution for all damages incurred in connection therewith, or the right to terminate this Agreement.

3.03 Remedies Upon Default. It is not intended hereby to specify (and this Agreement will not be considered as specifying) an exclusive remedy for a default by any party hereunder, but all remedies existing at law or in equity, including specific performance and mandamus, will be cumulative and available to the non-defaulting party in the event of a default by any other party as to its duties or obligations hereunder.

3.04 No Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or of performance by any other party of any duty or obligation hereunder shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind under any circumstances.

IV. INDUSTRIAL DISCHARGE PROHIBITED

4.01 Industrial Discharges and Prohibited Wastes.

(a) District acknowledges that the City has the responsibility and authority under federal and state law to establish:

(i) types and quantities of discharges that are prohibited for entry into the City's System, with the current types and quantities of prohibited discharges being more particularly described in Ordinances 1508-21-08-24 and 1509-21-08-24, attached as Exhibit B hereto ("IPP and FOG Ordinances");

(ii) discharge prohibitions for certain substances, being more particularly described in the IPP and FOG Ordinances;

(iii) pretreatment, permitting, monitoring, and other requirements for persons who discharge prohibited substances; and

(iv) measures to protect the City's System, including, without limitation, any portion of the sanitary sewer, and any receiving stream receiving a discharge of wastewater effluent from harmful discharges.

(b) The IPP and FOG Ordinances are subject to the amendment, modification, revision, and/or restatement by the City Council of the City of Pflugerville. If the IPP and FOG Ordinances are altered in any way by the City Council of the City of Pflugerville, the updated version of the IPP and FOG Ordinances will apply to this Agreement without requiring a written amendment.

(c) The District agrees that the Service Area may be used and improved solely for residential uses and commercial uses that generate only normal domestic wastewater, as determined by applicable policies and regulations of the City. No industrial uses will be permitted. Notwithstanding any provision herein to the contrary, however, no owner of any portion of the Service Area will be responsible or liable for any breach or violation of the covenants set forth hereunder which occurs outside of the portion of the Service Area owned by such owner.

(d) District agrees to seek injunctive or other appropriate relief to prohibit wastewater discharges that District becomes aware will damage or pass through City's System without adequate treatment, interfere with the treatment system, or otherwise pose an imminent danger to public health, or when the specific person or industry is not making sufficient progress toward implementing an approved pretreatment system.

(e) The parties agree that they will not construe this Agreement to limit, modify, restrict, or otherwise alter the responsibility or authority of the City to enforce its ordinances governing the pretreatment, monitoring, and discharge of wastewater containing industrial waste or other prohibited waste with respect to District when and as such action is deemed necessary by the City.

V. GENERAL PROVISIONS

5.01 Authority. This Agreement is made pursuant to the authority conferred in Texas Local Government Code, Section 552.001.

5.02 Liability of District. Liability for damages to third persons arising from the reception, transportation, delivery, and disposal of all wastewater discharged shall remain with District to the Points of Connection. With the exception of incompatible wastes or the delivery by District of prohibited wastes or wastewater that is corrosive or otherwise injurious to the City's System or to persons or property, upon passing the Points of Connection, liability for damages to third persons caused by the City shall pass to the City. Incompatible wastes are substances not amenable to wastewater treatment processes that will damage or interfere with the operation of the publicly owned treatment works or any portion of the City's System, including interference with the use or disposal of municipal sludge as well as pollutants that will pass through the treatment works unchanged by the treatment processes. Notwithstanding the foregoing, nothing in this Agreement shall waive, or be construed to waive, any immunity of the District under applicable law.

5.03 Liability of the City. Subject to the foregoing, the City shall bear the responsibility as between the parties for the proper reception, transportation, treatment, and disposal of all wastewater properly delivered to the Points of Connection by District. The parties agree that this Agreement does not absolve District of liability for damages to the City's System or to third persons arising from the delivery by District of prohibited wastes or wastewater that is corrosive or otherwise damaging to the City's System or to persons or property. Notwithstanding the foregoing, nothing in this Agreement shall waive, or be construed to waive, any immunity of the City under applicable law.

5.04 Severability. If any word, phrase, clause, sentence, paragraph, section or other portion of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and this Agreement shall be construed as if such invalid portion had never been contained herein and the provisions of this Agreement are expressly deemed severable for this purpose.

5.05 Cooperation. The parties hereto agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

5.06 Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter hereof.

5.07 No Presumption Against Drafter. The parties understand, agree, and acknowledge that: (i) this Agreement has been freely negotiated by both parties; and (ii) that, in the event of any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Agreement, or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.

5.08 Amendments. Any amendment hereof must be in writing and shall be effective only if signed by the authorized representatives of the City and the District.

5.09 Effect of Force Majeure. If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, it is agreed that each party shall give written notice of such force majeure to the other party as soon as commercially reasonable after the occurrence of the cause relied on and shall, therefore, be relieved of its obligations, so far as they are affected by such force majeure, during the continuance of any inabilities so caused, but for no longer. The term “force majeure” includes acts of God, strikes, lockouts or other industrial disturbances, shortage of supply or supply chain issues, criminal conduct or sabotage, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, pandemics, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply or wastewater systems, and any other inabilities of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence. It is understood and agreed that the settlement of strikes, lockouts and other industrial or labor disturbances shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or other industrial or labor disturbances by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty. Force majeure shall relieve the City from liability to the District or any customer of the District for failure to provide wastewater service due to an inability covered by this Article. Force majeure shall not relieve the District of its obligation to make payment to the City for Service provided under this Agreement.

5.10 No Amendment of Other Agreements. This Agreement is separate from and shall not constitute an amendment or modification of any other agreement between the parties.

5.11 No Third Party Beneficiaries. This Agreement shall inure only to the benefit of the parties hereto and third persons not privy hereto shall not, in any form or manner, be considered a third party beneficiary of this Agreement.

5.12 Assignment The rights and obligations of the District arising under this Agreement shall only be assignable if (i) the assignee assumes all of the obligations of the District hereunder in writing, and (ii) written notice of the assignment, together with a fully executed copy of the written assignment and assumption document, is furnished to the City and the District.

5.13 Applicable Law. This Agreement shall be construed in accordance with Texas law.

5.14 Venue. Venue for any action arising hereunder shall be in Travis County, Texas.

5.15 Notices. Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in

this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

For the purposes of this Agreement, notice will be delivered to:

THE DISTRICT:

New Sweden Municipal Utility District No. 1
c/o McLean & Howard, LLP
Barton Oaks Plaza, Building II
901 South MoPac Expy., Suite 225
Austin, Texas 78746
Email:

CITY OF PFLUGERVILLE:

City Manager
City of Pflugerville
P. O. Box 589
Pflugerville, Texas 78691
Email: _____

5.16 Exhibits. The following exhibits are attached to this Agreement and incorporated herein by reference:

- Exhibit A - Description of the Service Area
- Exhibit B - IPP and FOG Ordinances

5.17 Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. Each party represents and warrants that it has the full right, power and authority to execute this Agreement.

5.18 Effective Date. This Agreement shall be effective from and after the date of due execution hereof by all parties and approved by the City Council of the City of Pflugerville.

EXECUTED in multiple copies, on the _____ day of _____, each of which shall constitute an original, on the dates set forth below:

New Sweden Municipal Utility District No. 1

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

Secretary

CITY OF PFLUGERVILLE:

By: _____
Sereniah Breland, City Manager
Date: _____

ATTEST:

Trista Evans, City Secretary

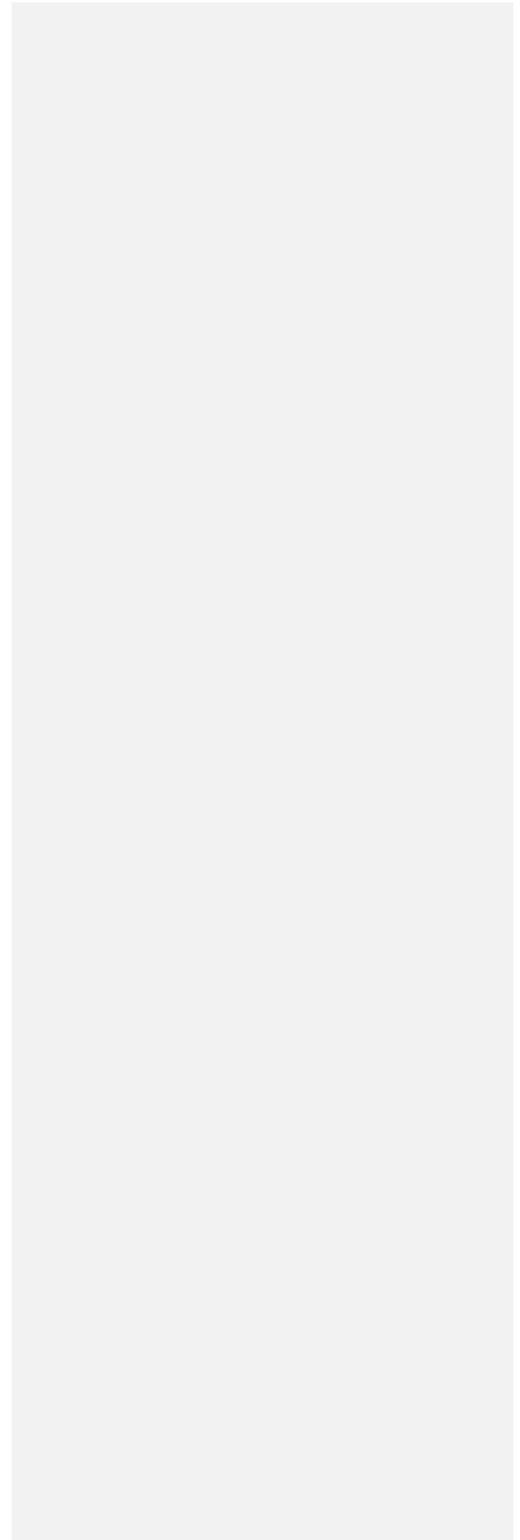


EXHIBIT "A"

SERVICE AREA

NEW SWEDEN MUNICIPAL UTILITY DISTRICT NO. 1 BOUNDARY MAP

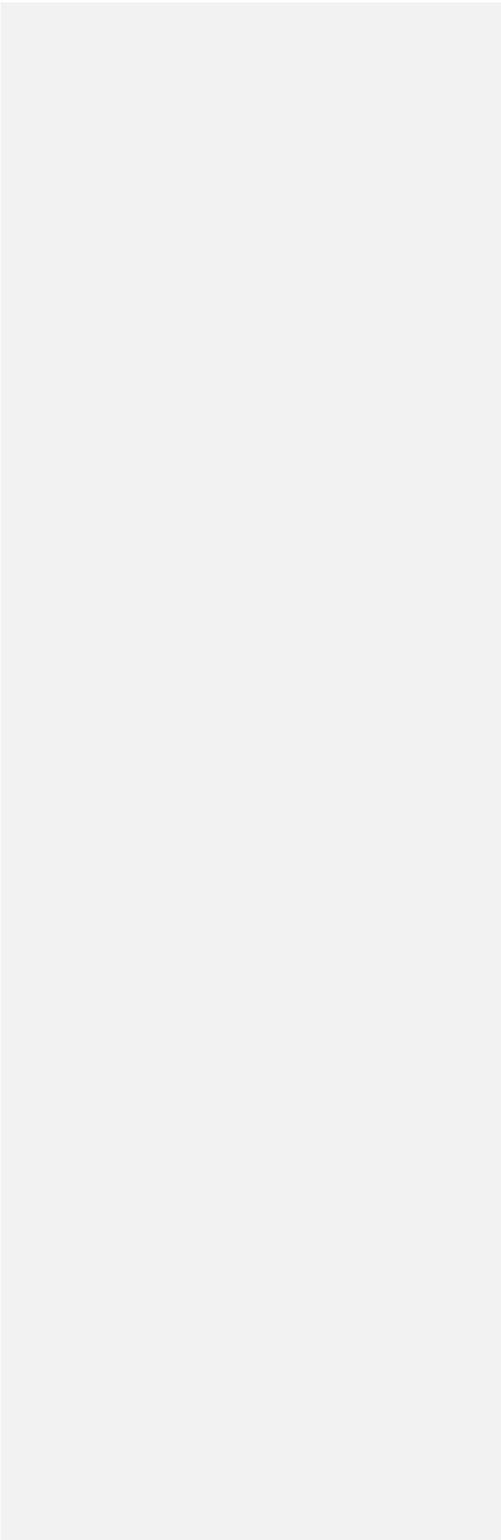
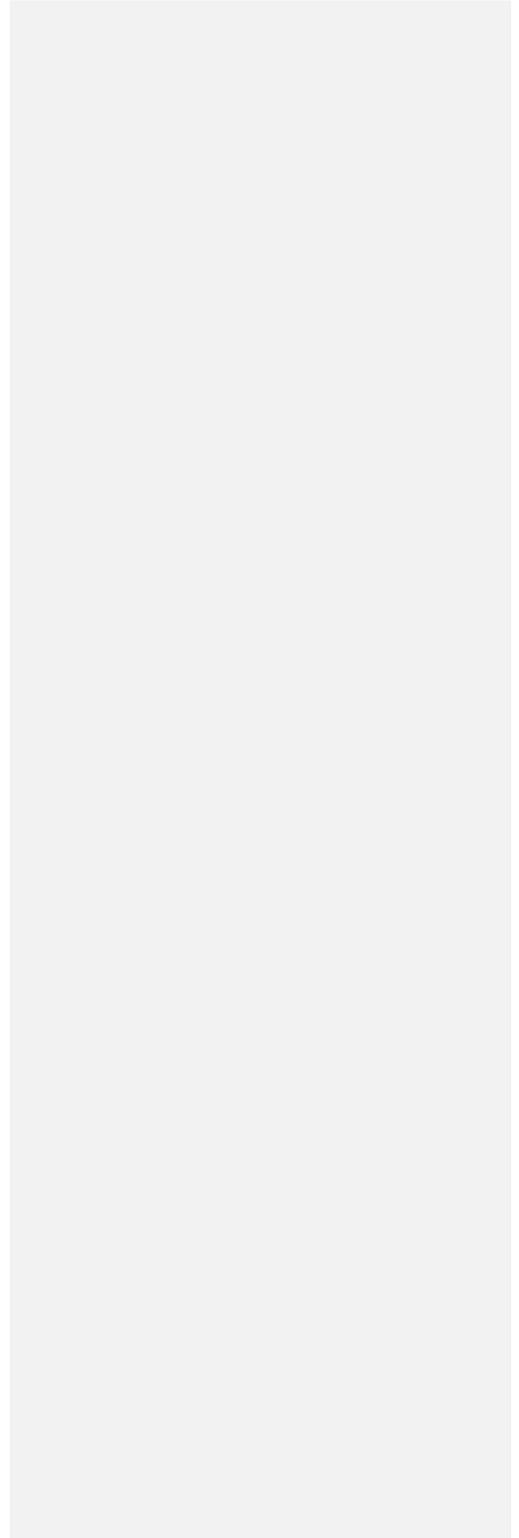


EXHIBIT B
IPP AND FOG ORDINANCES



**WASTEWATER FACILITIES CONSTRUCTION AND CONVEYANCE AGREEMENT
(Steepleview)**

STATE OF TEXAS §
COUNTY OF TRAVIS §

This Wastewater Facilities Construction and Conveyance Agreement (this "Agreement") by and between _____, a _____ ("Developer"), New Sweden Municipal Utility District No. 1, a conservation and reclamation district of the State of Texas ("District"), and the City of Pflugerville, a home-rule municipality located in Travis County, Texas ("City") is made and entered into effective as of the last date of execution below (the "Effective Date"). Developer, District and City are individually referred to herein as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, the City, Wilson Family Communities, Inc. ("Wilson"), R.M.D. holdings, L.P., and New Sweden MPC, L.P. entered into that certain "New Sweden Development Agreement" dated March 14, 2007 (the "Development Agreement") setting forth terms and conditions for development of certain real property described therein;

WHEREAS, on June 26, 2012, the City executed that certain "Consent to Assumption of New Sweden Development Agreement" (the "Consent Agreement") under which the City consented to the assumption of all rights, title, interests and obligations of Wilson under the Development Agreement by Graham Mortgage Company ("Graham") as it affects and relates to the real property described therein;

WHEREAS, Developer has purchased from Graham a portion of, and has under contract to purchase the remainder of, the real property more particularly described on **Exhibit "A"** attached hereto (the "Property");

WHEREAS, the Property represents all of the lands located within the boundaries of the District (excluding a tract owned by Pflugerville Independent School District), which Developer desires to develop as a master-planned single family residential community to be known as "Steepleview" (the "Project");

WHEREAS, the City and the District are parties to the following two agreements relating to the provision of retail wastewater service by City to customers within the District (collectively, the "Prior Sewer Agreements"): (i) that certain "Retail Service Agreement" executed by the District on March 10, 2008; and (ii) that certain "Retail Wastewater Service Agreement" executed by the District and the City on February 13, 2008;

WHEREAS, the Prior Sewer Agreements provided for the City to construct a wastewater treatment plant for the provision of retail wastewater service to future customers within the Property;

WHEREAS, the Parties no longer desire for the City to fund and construct a wastewater treatment plant for service to customers within the District and instead desire to provide for construction of a regional wastewater lift station and force main improvements that will allow the

City to provide wholesale wastewater service to customers within the Project and other lands utilizing the City's existing wastewater system; and

WHEREAS, the Developer has agreed to fund the regional wastewater lift station and interceptor improvements on behalf of the City in accordance with the terms, conditions and limitations of this Agreement, and therefore release the City of its obligation to fund and construct a wastewater treatment plant under the Prior Sewer Agreements; and

WHEREAS, the Parties desire to enter into this Agreement in order to release the City of its obligation to fund and construct a wastewater treatment plant; to provide for the funding and construction of wastewater infrastructure improvements required for the provision of wholesale wastewater service by the City to customers within the Property, and to otherwise set forth the terms and conditions pursuant to which the City will provide retail wastewater service to future customers within the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I RECITALS AND DEFINITIONS

Section. 1.1. Recitals. The Parties agree that the recitals above, including defined terms, are incorporated herein by reference for all purposes as if copied verbatim.

Section. 1.2. Definitions.

- A. "Agreement" means this Wastewater Construction, Conveyance and Service Agreement.
- B. "Applicable Rules" means the City's or Travis County's rules and regulations applicable to the development of the Property in effect as of the Effective Date of this Agreement, subject to any variances or exceptions approved in or pursuant to this Agreement.
- C. "Carmel Lift Station" means the existing City wastewater lift station that collects wastewater generated by the Carmel development and transmits such wastewater to the City's Wilbarger Treatment Plant.
- D. "City System" means the City's municipal wastewater system, as modified from time to time.
- E. "City Wet Well" shall have the meaning set forth in Section 5.2(b) of this Agreement.
- F. "City Wet Well Costs" shall have the meaning set forth in Section 6.2 of this Agreement.

- G. “Concept Plan” shall refer to that certain Concept Plan attached hereto as **Exhibit “C”**.
- H. “Cottonwood Interceptor” means the portion of the Cottonwood Interceptor within the District boundary to be constructed by the Developer on behalf of the District and subsequently conveyed to City for transporting wastewater from the District to the Wastewater Lift Station Project as outlined in **Exhibit “E”**; “Effective Date” means the last date of execution of this Agreement by the Parties; provided, this Agreement must be executed by all Parties to be effective.
- I. “Force Majeure” means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of any governmental entity or any civil or military authority, acts, orders or delays of any regulatory authorities with jurisdiction over the parties, insurrections, riots, acts of terrorism, epidemics, pandemics (such as COVID), landslides, lightning, earthquakes, fires, hurricanes, floods, washouts, droughts, arrests, restraint of government and people, pandemics, epidemics, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or any other conditions which are not within the control of a Party.
- J. “Internal Facilities” means the internal wastewater collection system infrastructure to be constructed by the Developer on behalf of the District and subsequently conveyed to City for providing retail wastewater service to customers within each Phase of development of the Property, including all facilities required to connect such internal collection facilities to the City System.
- K. “Living Unit Equivalent” or “LUE” means the quantity of retail wastewater service associated with one single-family residential unit, as determined by City in accordance with Applicable Rules.
- L. “Major Amendments” shall have the meaning set forth in Section 3.3 of this Agreement.
- M. “Minor Amendments” shall have the meaning set forth in Section 3.3 of this Agreement.
- N. “Over sizing Costs” shall have the meaning set forth in Section 6.2(c) of this Agreement.
- O. “Phase” means the area containing one or more subdivisions within the Property for which the Internal Facilities are constructed by the Developer under a single construction contract for the Phase. A Phase need not be adjacent to each preceding phase or developed in any particular numeric order provided service is established from all phases to the Lift Station.
- P. “Property” means the real property described in **Exhibit “A”** attached hereto. In the event Developer acquires additional lands that are annexed into the District after City consent to annexation, the definition of Property shall be deemed to include such additional lands.

- Q. “*Service Commitment*” means the 1,200 cumulative LUEs of wholesale wastewater service that City agrees to make available to the Property in accordance with the terms and conditions of this Agreement.
- R. “*TCEQ*” or “*Commission*” means the Texas Commission on Environmental Quality.
- S. “*Wastewater Force Main Project*” means the dual wastewater force main improvements to be constructed by the Developer on behalf of the District and subsequently conveyed to City for transporting wastewater from the Wastewater Lift Station Project to the existing Carmel Lift Station as more particularly described in the Preliminary Engineering Report dated February 2022 prepared by Pape-Dawson Engineers attached hereto as **Exhibit “B”**.
- T. “*Wastewater Lift Station Project*” means the wastewater lift station and related appurtenances to be constructed by the Developer on behalf of the District and subsequently conveyed to City, to collect wastewater from the Property for subsequent transmission through the Wastewater Force Main Project, all as more particularly described in the Preliminary Engineering Report dated February 2022 prepared by Pape-Dawson Engineers attached hereto as **Exhibit “B”**.

Commented [A1]: David/Tom - Can y'all confirm the LUE count? We have two different numbers and just want to make sure it's consistent in both documents. There are a few instances of 1,200 here but it doesn't match the Wholesale Agreement.

Section. 1.3. Interpretations. This Agreement and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement. The Parties agree that this Agreement shall not be construed in favor of or against either Party on the basis that the Party did or did not author the Agreement.

ARTICLE II PRIOR AGREEMENTS

Section. 2.1. Effect on Prior Agreements. The Parties agree that this Agreement shall replace and supersede all prior agreements between the Parties, or any of the Parties, relating to the provision of wastewater service to the Property. Without limitation, this Agreement shall replace and supersede the Prior Agreements, any and all agreements that relate to the provision of wastewater service to the Property, or the funding and construction of wastewater improvements for service to the Property, all of which are hereby terminated for all purposes.

Section. 2.2. Release of City’s Obligation to Fund and Construct Wastewater Treatment Plant. Developer and District hereby release City of any obligation to fund and construct a wastewater treatment plant for the provision of retail wastewater service to the Property whether in whole or in part, but nothing herein shall release or waive the City’s obligation to provide impact fee credit to Developer in accordance with Section 6.2 of this Agreement.

ARTICLE III DESIGN AND CONSTRUCTION OF INTERNAL FACILITIES

Section. 3.1. The Developer, on behalf of the District and at Developer’s sole expense, shall construct all Internal Facilities that are necessary and required to serve the Property, including the water distribution system improvements; wastewater collection system improvements; drainage system and storm water management improvements; and roads, all of which such improvements shall be located within designated easements or rights of way. The Internal Facilities will be designed and constructed in accordance with the Applicable Rules, ordinances, rules and

regulations of the City in effect as of the Effective Date of this Agreement, and shall be constructed in accordance with plans and specifications approved by the City Engineer, which shall not be unreasonably withheld or delayed. Neither Developer nor the District will be required to pay for or construct any improvements to the City's existing utility systems or other offsite improvements required to serve the Property except as provided for in this Agreement. Further, except as provided herein, unless Developer's service requirements for the Property change or the Parties otherwise agree, the City will not require that the Developer or District oversize, finance, or construct any Internal Facilities to serve any lands other than the Property.

Section 3.2. Ownership and Conveyance of Internal Facilities.

(a) The City shall have no obligation to acquire or accept dedication of the Internal Facilities.

(b) The Parties agree that the Developer may convey detention and water quality ponds to the District for ownership, but under such circumstances, Developer shall also convey an easement to a homeowner's association that requires the association to be responsible for operation and maintenance of the facilities in perpetuity, including after annexation and dissolution of the District by the City.

Section 4.3 Points of Connection. So that the City may provide the Service, the City System shall be connected to the wastewater facilities of the District at the agreed points of connection (the "Points of Connection")

Section 4.4 Manner of Connection. The District's Internal Facilities will be connected to the City System by the District's construction of the Interconnection Facilities at the Points of Connection. The District will ensure that the Interconnection Facilities and Internal Facilities are constructed by the District in compliance with the approved plans and specifications, with such plans and specifications being designed in accordance with applicable regulations and construction standards of the City and the Texas Commission on Environmental Quality ("TCEQ"). In the event that there is any conflict between these regulations, standards and specifications, the more stringent regulations, standards and specifications will apply.

Section 4.5 Platting Process. The District will not make any connections in the Service Area unless the City platting process for the connections is complied with and the City's Capital Recovery Fees have been paid as set forth in this Agreement.

Section 4.6 Approval of Plans.

- (a) All plans and specifications for Internal Facilities and Interconnection Facilities to be constructed by District after the effective date of this Agreement shall be engineered and designed by a Texas Registered Professional Engineer hired by the District ("District Engineer") and subject to the review and approval by a Texas Registered Professional Engineer engaged or employed by the City ("City Engineer") prior to commencement of construction.
- (b) City Engineer shall review and approve all plans and specifications of the Interconnection Facilities constructed after the effective date of this Agreement in accordance with this paragraph prior to District's commencement of construction. District shall not commence construction of the Interconnection Facilities unless and until City Engineer provides its approval of all plans and specifications for the Interconnection Facilities in accordance

with this paragraph. Approval shall be granted if it is issued by the City Engineer in writing either via electronic or postal mail, or otherwise deemed granted as set forth in this paragraph. City Engineer shall review and either (i) approve, or (ii) provide comments and/or request revisions with respect to, any plans or specifications submitted by District Engineer within twenty (20) business days after the District Engineer's submission of the same. If City Engineer provides detailed comments or requested revisions to any plans, specifications, or both submitted by District Engineer, District Engineer shall resubmit any plans, specifications, or both addressing City Engineer's comments or requested revisions within ten (10) business days of District Engineer's receipt of such comments or requests, and City Engineer shall either (i) approve, or (ii) provide detailed comments and/or request revisions with respect to, any resubmissions within ten (10) business days of such resubmission. Any extensions to the time periods set forth in this paragraph may be made so long as the Parties agree to the extension in writing before such time expires. Absent an agreed extension, plans and specifications shall be deemed to have been approved if the City Engineer does not provide comments or request changes within the time periods set forth above.

- (c) If, after approval of plans and specifications for the Internal Facilities and Interconnection Facilities, District fails to enter a construction contract for those facilities within 1 year of the date of approval of such plans, District's Engineer must resubmit the plans and specifications for review and approval by the City Engineer to assure their conformity with City's or TCEQ's then current specifications, laws, ordinances, and regulations. If such plans and specifications do not conform to those existing standards, then, District will revise the plans and specifications to meet the City's or TCEQ's standards before commencement of construction.

Section 4.7 Notification of Commencement of Construction. After all required approvals for construction of the Internal Facilities and the Interconnection Facilities are obtained, but prior to commencement of construction, District shall provide at least seven (7) days written notice to the City of the date on which construction of the same is scheduled to commence to allow the City to assign an inspector.

Section 4.8 Inspection and Acceptance of Facilities.

- (a) Notwithstanding City's final inspection of the Interconnection Facilities, District agrees that City has the right to make periodic inspections during the construction phase of the Internal Facilities and the Interconnection Facilities. Upon request, District shall arrange to provide lawful and reasonable access to the City for such purposes. District will pay all applicable fees for the inspection of Internal Facilities and the Interconnection Facilities by the City. Acceptance of Internal Facilities and the Interconnection Facilities is subject to final inspection and approval by the City.
- (b) The Interconnection Facilities will be dedicated to the City by District for ownership, operation, and maintenance at such time that the developer has been reimbursed for the costs of such facilities and the District has obtained ownership of such facilities.

Section 4.9 As-Built or Record Drawings Required. District shall provide as-built or record drawings of all completed treatment facilities, lift stations, force mains, and other facilities

comprising District Sewer Facilities within the Service Area and the Interconnection Facilities to the City within 30 calendar days of the commencement of Service under this Agreement.

**ARTICLE IV
DESIGN AND CONSTRUCTION OF WASTEWATER LIFT STATION PROJECT AND
WASTEWATER FORCE MAIN PROJECT**

Section. 4.1. Design and Construction of Wastewater Lift Station Project and Wastewater Force Main Project.

(a) The Developer, on behalf of the District and subject to its rights to receive impact fee credit in accordance with Section 6.2 below, shall fund, design, permit and construct the portion of the Cottonwood Interceptor within the District boundaries, Wastewater Force Main Project and the Wastewater Lift Station Project in accordance with the Applicable Rules of the City in effect as of the Effective Date of this Agreement. The Wastewater Force Main Project and Wastewater Lift Station Project shall be constructed in accordance with plans and specifications approved by the City Engineer, which shall not be unreasonably withheld or delayed. As part of the Wastewater Force Main Project, the Developer shall fund, design and construct a parallel 12-inch wastewater force main for use by the City to serve future customers located outside the Property. In consideration of the design, permitting and construction of the **Wastewater Force Main Project and Wastewater Lift Station Project**, Developer will acquire on behalf of the District, and is hereby conveyed, a reservation and commitment of 1,200 LUEs of capacity in the **Wastewater Force Main Project and Wastewater Lift Station Project**. In consideration of the capacity interest and reservation, Developer may seek reimbursement from the District for the costs of the Wastewater Force Main Project and the Wastewater Lift Station Project as permitted by applicable law.

(b) Upon completion of construction of each of the portion of the Cottonwood Interceptor within the District boundaries, Wastewater Force Main Project and the Wastewater Lift Station Project constructed by Developer on behalf of the District, (i) the City will accept such facilities for operation and maintenance in accordance with the Applicable Rules; and (b) Developer or District will promptly convey those facilities to the City, subject to (i) a reservation of all capacity in those facilities for the benefit of the District; and (ii) Developer's right, if any, to reimbursement from the District for the cost of those facilities in accordance with the rules of the Commission. Developer will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the facilities conveyed to the City. The City agrees that its acceptance of facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed as long as the facilities have been constructed in accordance with all state and local codes and plans and specifications approved by the City, which approvals shall be based on the standards in effect as of the Effective Date of this Agreement. Conveyance will not affect the Developer's right to reimbursement from the District for the cost of any facilities.

Section. 4.2. Capacity of Wastewater Lift Station Project.

(a) The initial capacity of the Wastewater Lift Station Project (excluding the City Wet Well, as defined below) shall be sized to serve not more than 1,200 LUEs or such lesser amount as determined by Developer. This initial capacity shall be dedicated and restricted for use to lands within the Property only and under no circumstances may the City redirect or allow others to utilize such capacity whether on a permanent or temporary basis.

(b) As part of the Wastewater Lift Station Project, the Developer shall fund, design and construct a wet well of a size determined by the City (the "City Wet Well") adequate for the full capacity of the expanded Wastewater Lift Station Project as determined by the City. The City Wet Well shall be constructed simultaneously with, and as part of, the Wastewater Lift Station Project and shall be purposed for the needed flows to be generated within the Property, and with additional capacity as determined by the City but not to exceed 4,800 cumulative LUEs of capacity. The City shall also specify the design requirements for pumps and related facilities and appurtenances to be constructed by Developer as part of the City Wet Well, which shall be consistent with the Preliminary Engineering Report attached hereto as **Exhibit "B"**. In consideration of funding and constructing the City Wet Well, the City shall grant impact fee credits to new service connections within the Property in accordance with Section 6.2 below to reimburse Developer for the oversizing incurred for the City Wet Well.

Section. 4.3. Capacity of Wastewater Force Main Project. As part of the Wastewater Force Main Project, the Developer shall fund, design and construct a parallel 12-inch wastewater force main for use by the City to serve future customers located outside the Property. The City acknowledges and agrees that the second force main is not required for service to the Property. The second force main shall be constructed simultaneously with, and as part of, the Wastewater Force Main Project. The City shall specify the design requirements for the force main improvements, which shall be consistent with the Preliminary Engineering Report attached hereto as **Exhibit "B"**. In consideration of funding and constructing the second force main, the City shall grant impact fee credits to new service connections within the Property in accordance with Section 6.2 below to reimburse Developer for the oversizing incurred for the Wastewater Force Main Project.

Section. 4.4. Capacity of Cottonwood Interceptor. As part of the Wastewater Interceptor Project, the Developer shall fund, design and construct a portion of the 36-inch Cottonwood Interceptor that will terminate at the Developer constructed lift station as set forth in **Exhibit "E"**. The City shall specify the design requirements for the interceptor improvements, which shall be consistent with the City of Pflugerville Wastewater Mast Plan In consideration of funding and constructing the interceptor, the City shall grant impact fee credits to new service connections within the Property in accordance with Section 6.2 below to reimburse Developer for the oversizing incurred for the Wastewater Interceptor Project.

Section. 4.5. Alignment of Wastewater Force Main Project. The alignment of the Wastewater Force Main Project is set forth in **Exhibit "D"** attached hereto. The City may identify an alternative point of terminus for the Wastewater Force Main Project in closer proximity to the Property and that does not increase costs to the Developer. The Parties agree that minor changes to the alignment of the Wastewater Force Main Project may occur in connection with easement acquisition, but material changes, including a connection to a different wastewater lift station of the City other than the Carmel Lift Station or that would increase Developer's costs, shall require prior written approval of the Developer.

ARTICLE V RATES, FEES, CHARGES, AND FINANCIAL MATTERS

Section. 5.1. Impact Fee Credit for Oversizing Costs.

(a) As consideration for Developer funding the costs of oversizing the City Wet Well, Developer shall be entitled to wastewater impact fee credit for a pro rata share of all costs of design, permitting and construction of the City Wet Well The pro rata share of costs for which Developer is entitled to impact fee credit shall be equal to the costs of oversizing the City Wet Well beyond

the 1,200 LUEs of capacity potentially applicable to the Property, and shall be equal to the product of multiplying (1,200/4,800) by the total costs of design, permitting and construction of the City Wet Well (the "Wet Well Oversizing Costs"). The City Wet Well shall be bid as a separate component than the remainder of the Wastewater Lift Station Project so that the Wet Well Oversizing Costs may be identified with certainty. At such time as the City Wet Well is completed, Developer shall provide to City a summary, with reasonable supporting detail, identifying all costs of design, permitting, engineering, and construction of the City Wet Well funded by Developer (the "City Wet Well Costs").

(b) As consideration for Developer funding the costs of oversizing the Interceptor, Developer shall be entitled to wastewater impact fee credit for a pro rata share of all costs of design, permitting and construction of the City Interceptor. The pro rata share of costs for which Developer is entitled to impact fee credit shall be equal to the costs of oversizing the City Interceptor beyond the 1,200 LUEs of capacity potentially applicable to the Property, and shall be equal to the product of multiplying (1,200/4,800) by the total costs of design, permitting and construction of the City Interceptor (the "Interceptor Oversizing Costs"). The City Interceptor shall be bid as a separate component than the remainder of the Wastewater Lift Station Project so that the Interceptor Oversizing Costs may be identified with certainty. At such time as the City Interceptor is completed, Developer shall provide to City a summary, with reasonable supporting detail, identifying all costs of design, permitting, engineering, and construction of the City Interceptor funded by Developer (the "City Interceptor Costs").

(c) In recognition that the City is requiring Developer to fund and construct a second wastewater force main as part of the Wastewater Force Main Project that is not required for service to the Property, Developer also shall be entitled to wastewater impact fee credit for a pro rata share of the costs of construction of the Wastewater Force Main Project. The pro rata share of costs for which Developer is entitled to impact fee credit shall be equal to fifty percent (50%) of the costs of the City Force Main Project, including all costs of design, permitting, easement acquisition and construction (the "Force Main Oversizing Costs"). The Wastewater Force Main Project shall be bid and constructed by Developer, on behalf of the District, as one project. At such time as the Wastewater Force Main Project is completed, Developer shall provide to City a summary, with reasonable supporting detail, identifying all costs of design, permitting, engineering, easement acquisition and construction of the Wastewater Force Main Project funded by Developer (the "Force Main Project Costs").

(d) The Wet Well and Interceptor Oversizing Costs plus the Force Main Oversizing Costs are collectively referred to herein as the "Oversizing Costs" for which the Developer is entitled to impact fee credit. Each new wastewater service connection within the Property shall be credited with the payment of wastewater impact fees in full, regardless of any subsequent increase in impact fees, until Developer has received impact fee credit for all of the Oversizing Costs. The minimum number of credited single family service connections shall be equal to the quotient of the Oversizing Costs divided by \$15,136.00 (the current wastewater impact fee). No further actions or approvals by the City shall be required for Developer to secure the sewer impact fee credit. Any subsequent increase in the amount of the City's wastewater impact fee after the effective date of this Agreement shall not diminish the number of credited service connections.

(e) If less than full recovery of oversizing costs would be achieved based on the number of single family residential wastewater service connections within the Property, then Developer's funding obligation for oversizing the Wastewater Lift Station Project shall be reduced to the maximum amount of recoverable impact fee credits within the Property, and the City shall be responsible for funding the incremental Oversizing Costs of the Wastewater Lift Station Project

that may not be recovered by the Developer by impact fee credit. Under such circumstances, the City shall reimburse Developer for all incremental Oversizing Costs that exceed the maximum amount of recoverable impact fee credits in full within thirty (30) days after completion of construction of the Wastewater Lift Station Project.

ARTICLE VI REAL PROPERTY MATTERS

Section. 6.1. Wastewater Lift Station Project. The Wastewater Lift Station Project, including the City Wet Well, shall be located on lands owned by the City, at a location directed by the City, and the City shall make the site available to the Developer at no cost for construction of the Wastewater Lift Station Project, for access thereto, and for all needed Wastewater Force Main Project improvements. In addition, the City shall grant easements to Developer for the purposes of conveying drainage water flows at predeveloped flow rates and velocities at locations agreed upon by the Parties.

Section. 6.2. Cottonwood Interceptor Project. The Wastewater Interceptor Project shall be located within a dedicated easement, all with full and adequate access rights, at no cost to the City. The City specifically acknowledges and agrees that the District may exercise the power of eminent domain to acquire the easements required for the Wastewater Interceptor Project, if necessary, and the City agrees to fully cooperate with the District as may be necessary for the District to acquire such easements.

Section. 6.3. Wastewater Force Main Project Easements. The Wastewater Force Main Project shall be located within dedicated easements or recorded public rights-of-way, all with full and adequate access rights, at no cost to City. The City specifically acknowledges and agrees that the District may exercise the power of eminent domain to acquire the easements required for the Wastewater Force Main Project, if necessary, and the City agrees to fully cooperate with the District as may be necessary for the District to acquire such easements.

TERM

Section. 6.1. Term. This Agreement shall become effective as of the Effective Date and shall remain in effect until the obligations of the Parties under this Agreement are completed.

ARTICLE VII REMEDIES

Section. 7.1. City Remedies. If Developer or District fails or refuses to timely comply with any of its obligations hereunder, or if, Developer's or District's representations, warranties or covenants contained herein are not true or have been breached, City will have the right to enforce this Agreement, after providing notice and opportunity to cure in accordance with Section 8.4 below, by any remedy at law or in equity or under this Agreement to which it may be entitled.

Section. 7.2. Developer Remedies. If City or District fails or refuses to timely comply with any of its obligations hereunder, or if, City's or District's representations, warranties or covenants contained herein are not true or have been breached, Developer will have the right, after

providing notice and opportunity to cure in accordance with Section 7.4 below, to enforce this Agreement by any remedy at law or in equity.

Section. 7.3. District Remedies. If Developer or City fails or refuses to timely comply with any of its obligations hereunder, or if, Developer’s or City’s representations, warranties or covenants contained herein are not true or have been breached, District will have the right to enforce this Agreement, after providing notice and opportunity to cure in accordance with Section 9.4 below, by any remedy at law or in equity or under this Agreement to which it may be entitled.

Section. 7.4. Notice and Opportunity to Cure. If any Party (referred to herein as the “*Defaulting Party*”) fails to comply with its obligations under this Agreement or is otherwise in breach or default under this Agreement (collectively, a “*Default*”) then any of the other Parties (referred to herein as the “*Non-Defaulting Party*”) may not invoke any rights or remedies with respect to the Default until and unless: (i) the Non-Defaulting Party delivers to the Defaulting Party a written notice (the “*Default Notice*”) which specifies all of the particulars of the Default and specifies the actions necessary to cure the Default; and (ii) the Defaulting Party fails to cure, within ten (10) days after the Defaulting Party’s receipt of the Default Notice, any matters specified in the Default Notice which may be cured solely by the payment of money or the Defaulting Party fails to commence the cure of any matters specified in the Default Notice which cannot be cured solely by the payment of money within a reasonable period of time after the Defaulting Party’s receipt of the Default Notice or fails to thereafter pursue curative action with reasonable diligence to completion.

**ARTICLE VIII
NOTICES**

Section. 8.1. Notices. Any notice given under this Agreement must be in writing and may be given: (i) by depositing it with Federal Express or another delivery service guaranteeing “next day delivery”, addressed to the Party to be notified and with all charges prepaid; or (ii) by personally delivering it to the Party, or any agent of the Party listed in this Agreement. Notice given in any manner will be effective when received. For purposes of notice, the addresses of the Parties will, until changed as provided below, be as follows:

CITY: Pflugerville City Manager
Attn. Planning & Development Services
PO Box 589
Pflugerville, Texas 78691-0589

DEVELOPER: _____

MUDI: New Sweden Municipal Utility District
No. 1
c/o McLean & Howard, LLP
Barton Oaks Plaza, Building II
901 South MoPac Expy., Suite 225

Austin, Texas 78746

The Parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days' written notice to the other Parties. Any Party may, by giving at least five (5) days' written notice, designate additional parties to receive copies of notices under this Agreement.

ARTICLE IX MISCELLANEOUS

Section. 9.1. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which will serve as an original and will constitute one and the same instrument.

Section. 9.2. Costs and Expenses. Except as otherwise expressly provided herein, each Party will be responsible for all costs and expenses incurred by such Party in connection with the transaction contemplated by this Agreement.

Section. 9.3. Governing Law. This Agreement will be governed by the Constitution and laws of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

Section. 9.4. Successors and Assigns. The assignment of this Agreement by any Party is prohibited without the prior written consent of the other Parties. All of the respective covenants, undertakings, and obligations of each of the Parties will bind that Party and will apply to and bind any successors or permitted assigns of that Party.

Section. 9.5. Headings. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and will have no bearing upon its interpretation.

Section. 9.6. Partial Invalidity. If any of the terms, covenants or conditions of this Agreement, or the application of any term, covenant, or condition, is held invalid as to any person or circumstance by any court with jurisdiction, the remainder of this Agreement, and the application of its terms, covenants, or conditions to other persons or circumstances, will not be affected.

Section. 9.7. Waiver. Any waiver by any Party of its rights with respect to a default or requirement under this Agreement will not be deemed a waiver of any subsequent default or other matter.

Section. 9.8. Amendments. This Agreement may be amended or modified only by written agreement duly authorized by City and Developer, and executed by the duly authorized representatives of the Parties.

Section. 9.9. Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement. Without limitation, each Party agrees to

execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

Section. 9.10. Venue. All obligations of the Parties are performable in Travis County, Texas and venue for any action arising hereunder will be in Travis County.

Section. 9.11. Third Party Beneficiaries. Except as otherwise expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

Section. 9.12. Exhibits. All exhibits attached to this Agreement are hereby incorporated in this Agreement as if the same were set forth in full in the body of this Agreement.

Section. 9.13. Entire Agreement. This Agreement, including the attached exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous communications, representations, or agreements, either verbal or written, between the Parties with respect to such matters.

Section. 9.14. Counterpart Execution. This Agreement may be executed in three (3) or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement. Delivery of a signature to this Agreement by facsimile transmission or electronic mail in “portable document format” shall have the same effect as physical delivery of the paper document bearing the original signature.

Section. 9.15. Authority for Execution. The City certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City ordinances. Developer hereby certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the company agreement of Developer.

Section. 9.16. Interested Parties. Developer acknowledges that Texas Government Code Section 2252.908 (as amended, “*Section 2252.908*”) requires disclosure of certain matters by contractors entering into a contract with a local government entity such as the City. Developer confirms that it has reviewed Section 2252.908 and, if required to do so, will (1) complete a Form 1295, using the unique identification number specified on page 1 of the Agreement, and electronically file it with the Texas Ethics Commission (“*TEC*”); and (2) submit the signed Form 1295, including the certification of filing number of the Form 1295 with the TEC, to the City at the same time the Developer executes and submits this Agreement to the City. Form 1295s are available on the TEC’s website at <https://www.Endethics.state.tx.us/filinginfo/1295/>. The Agreement is not effective until the requirements listed above are satisfied and any approval or award of the Agreement by the City is expressly made contingent upon Developer’s compliance with these requirements. The signed Form 1295 may be submitted to the City in an electronic format.

Section. 9.17. Conflicts of Interest. Developer acknowledges that Texas Local Government Code Chapter 176 (as amended, “*Chapter 176*”) requires the disclosure of certain matters by contractors doing business with or proposing to do business with local government entities such as the City. Developer confirms that it has reviewed Chapter 176 and, if required to do so, will complete and return Form CIQ promulgated by the TEC, which is available on the TEC’s website at <https://www.ethics.state.tx.us/forms/conflict/>, within seven days of the date of

submitting the Agreement to the City or within seven days of becoming aware of a matter that requires disclosure under Chapter 176, whichever is applicable.

Section. 9.18. Verification Under Chapter 2271, Texas Government Code. If required under Chapter 2271 of the Texas Government Code (as amended, "*Chapter 2271*"), Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly or majority-owned subsidiary, parent company, or affiliate of Developer that exist to make a profit, boycott Israel or will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Chapter 2271, to the extent such Chapter does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with Developer.

Section. 9.19. Verification Under Subchapter F, Chapter 2252, Texas Government Code. For purposes of Subchapter F of Chapter 2252 of the Texas Government Code (as amended, "*Subchapter F*"), Developer represents and warrants that, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Developer that exist to make a profit, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts (the "*Comptroller*") described within Subchapter F and posted on the Comptroller's internet website at:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, and
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Subchapter F, to the extent such subchapter does not contravene applicable Federal law, and excludes companies that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan, Iran, or a foreign terrorist organization. Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with Developer.

Section. 9.20. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by reference:

- Exhibit A - Description of Property**
- Exhibit B - Preliminary Engineering Report**
- Exhibit C - Concept Plan**
- Exhibit D - Alignment for Wastewater Force Main Project**
- Exhibit E - Cottonwood Interceptor**

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, each Party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, to be effective as of the last date of execution below.

CITY OF PFLUGERVILLE:

By: _____

Printed Name: _____

Title: City Manager _____

Date: _____

ATTEST:

City Secretary

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the ____ day of _____, _____, by _____, as _____ of the City of Pflugerville, a Texas home rule municipality, on behalf of said municipality.

Notary Public, State of Texas
Print Name: _____

[seal]

DEVELOPER:

By: _____

Name: _____

Title: _____

Date: _____

STATE OF _____

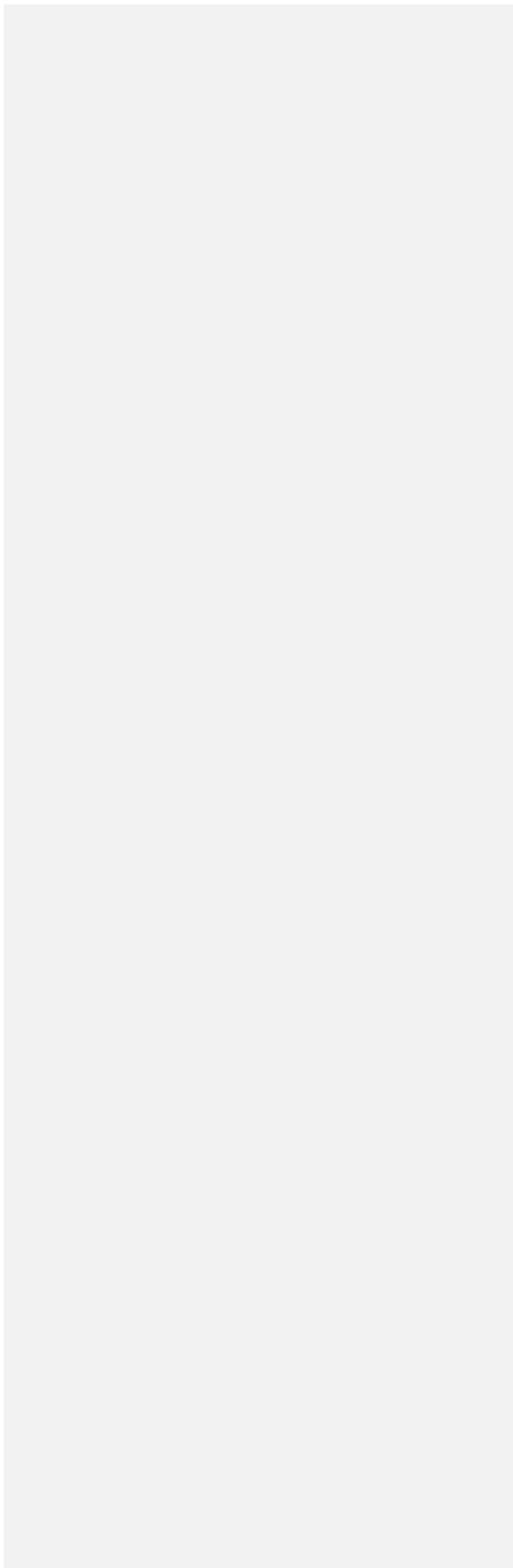
§
§
§

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____, _____, by _____, as _____ of _____, a _____, on behalf of said _____.

Notary Public, State of Texas
Print Name: _____

[seal]



**NEW SWEDEN MUNICIPAL UTILITY
DISTRICT NO. 1:**

By: _____

Printed Name: _____

Title: _____

Date: _____

Secretary

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

This instrument was acknowledged before me on the ____ day of _____, _____, by _____, as _____ of New Sweden Municipal Utility District No. 1, a Texas conservation and reclamation district, on behalf of said district.

Notary Public, State of Texas

Print Name: _____

[seal]

New Sweden M.U.D. No. 1

Accounting Report

March 9, 2023

- Review cash activity report, including Collections and Expenditures.
 - ☑ Action Items:
 - Approve director and vendor payments

**New Sweden MUD No. 1
Cash Activity Report
November 14, 2022 - March 9, 2023**

		ABC Bank	
		Operating	Bookkeeper's
Cash - Reported at November 14, 2022 Meeting		\$ -	\$ 12,580.11
Subsequent Activity through March 9, 2023		-	(991.27)
Bank Fee		(48.00)	
Bank Service Charge - October 2022 - January 2023		277.05	
Voided Checks		(1,151.50)	
TML	1093	(68.82)	
US Treasury	1094	(991.27)	
	Total Bookkeeper's Account Activity	(991.27)	
Expenditures for Approval - March 9, 2023 Board Meeting		-	(32,887.90)
<u>Vendor</u>	<u>Ck #</u>	<u>Memo</u>	<u>Amount</u>
Amy Martin	1095	Director Fees - March 9, 2023 Meeting	(138.52)
Connie Clark	1096	Director Fees - March 9, 2023 Meeting	(138.52)
Craig Couch	1097	Director Fees - March 9, 2023 Meeting	(138.52)
Josh Rolfe	1098	Director Fees - March 9, 2023 Meeting	(138.52)
Kristen Alexandrov	1099	Director Fees - March 9, 2023 Meeting	(138.52)
Bott & Douthitt PLLC	1100	Accounting Services - November & December 2022	(1,250.00)
Jones-Heroy & Associates, Inc.	1101	Engineering Fees - November 2022	(267.50)
McCall Parkhurst & Horton	1102	May & November 2022 Election Expenses	(19,515.34)
McLean & Howard LLP	1103	Legal Fees - October 2022 - January 2023	(11,162.46)
	Total Expenditures for Approval	\$ (32,887.90)	
Subtotal - March 9, 2023		-	(21,299.06)
Developer Funding Request Dated March 2, 2023		-	35,000.00
Expected Ending Cash Balance as of March 9, 2023		\$ -	\$ 13,700.94

Invoice



Date	Invoice #
11/30/2022	12866

Bill To
New Sweden MUD c/o Bott & Douthitt PLLC PO Box 2445 Round Rock, TX 78680

Description	Amount
Monthly Accounting Services - Meeting	500.00
<i>By/Date Received: 10/12/22</i> <i>By/Date Posted: 10/12/22</i> <i>Approved for Payment: [Signature]</i> <i>Hand Delivered to: _____</i> <i>Mailed By/Date: _____</i> <i>GL#: 6830</i>	
Thank you for your business!	Total \$500.00

Invoice



Date	Invoice #
12/31/2022	13016

Bill To

New Sweden MUD
c/o Bott & Douthitt PLLC
PO Box 2445
Round Rock, TX 78680

Description	Amount
Quarterly Accounting Services	750.00
<p>By/Date Received: <u>DA 1-5-23</u></p> <p>By/Date Posted: <u>DA 1-5-23</u></p> <p>Approved for Payment: <u>JMK</u></p> <p>Hand Delivered to: _____</p> <p>Mailed By/Date: _____</p> <p>GL#: <u>6830</u></p>	
Thank you for your business!	Total \$750.00

JONES - HEROY & ASSOCIATES, INC.

13915 N. Mopac Expy
 Suite 408
 Austin, TX 78728

Invoice

Date	Invoice #
12/15/2022	18116

Bill To
New Sweden MUD 1 c/o Mary Bott Bott & Douthitt, PLLC PO Box 2445 Round Rock, TX 78680

Terms	Project
Net 30	0076-001 General

Item	Description	Hours	Amount
TP- \$190 Associate	11/1/22: TP- emails	0.25	47.50
TP- \$190 Associate	11/7/22: TP- create monthly report files, review status of project and draft Board report	0.50	95.00
KH- \$220 President	11/7/22: KH - review board report	0.25	55.00
PG - Grad. Eng. \$140	11/14/22 : PG - Board Meeting	0.50	70.00

By/Date Received: 12-20-22
 By/Date Posted: _____
 Approved for Payment: [Signature]
 Hand Delivered to: _____
 Mailed By/Date: _____
 GL#: 6840

Thank you for your business and if you have any questions, please contact us at 512-989-2200.	Total	\$267.50
---	--------------	----------



January 4, 2023

VIA E-MAIL

New Sweden Municipal Utility District No. 1
c/o McLean & Howard, L.L.P.
Barton Oaks Plaza, Building II
4301 Bull Creek Road, Suite 150
Austin, Texas 78731

By/Date Received: 01-15-23
By/Date Posted: _____
Approved for Payment: [Signature]
Hand Delivered to: _____
Mailed By/Date: _____
GL#: 6545

Client No: 10238.001

Re: New Sweden Municipal Utility District No. 1 – May 2022 Bond Election and November 2022 Bond Election

MAY 2022 ELECTION - FINAL DISBURSEMENTS & EXPENSES:

Courier (Pro Courier/Lonestar Overnight)	\$ 11.25
Translation for Bond Election	<u>1,135.94</u>
Total Disbursements and Expenses:	\$ 1,147.19

NOVEMBER 2022 ELECTION - FINAL DISBURSEMENTS & EXPENSES:

Courier (Pro Courier/Lonestar Overnight)	\$ 68.43
Printing	6.80
Publication (Austin American Statesman)	17,226.00
Translation for Bond Election	<u>1,066.92</u>
Total Disbursements and Expenses:	\$18,436.62

TOTAL AMOUNT DUE: \$19,515.34

Wiring Instructions: Plains Capital Bank
325 N. St. Paul Street, Suite 175
Dallas, Texas 75201
214/525-4651

ABA Number: 1113-2299-4
Account Number: 7542113500 (For Credit to: McCall, Parkhurst & Horton L.L.P. Operating Account)

Reference No.: **10238.001; NEW SWEDEN MUD NO. 1 – PLEASE INCLUDE ON REMITTANCE**

McLean & Howard, L.L.P.

4301 Bull Creek Road
Suite 150
Austin, TX 78731

Ph:512-328-2008

Fax:512-328-2409

New Sweden MUD No. 1
mary@bottdouthitt.com

October 31, 2022

Attention:

File #: 2934-001
Inv #: 44366

RE: General

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Oct-18-22	Contact Travis County Regarding Voter Registration list.	0.50	60.00	LJH
Oct-19-22	Contact Board members and consultants to schedule a Board meeting. Contact Travis County Voter Registration again.	0.50	60.00	LJH
Oct-24-22	Review and revise Resolution Approving Actions of Temporary Board of Directors, District Information Form and Agenda.	1.80	630.00	ASC
	Draft November Agenda. Confirm November meeting and send out calendar invite. Draft Certificates of Election, oaths and statements, District Information Form, Resolution Appointing Temporary Directors and minutes from August meeting. Arrange for payment and excution of bond insurance.	3.25	390.00	LJH
Oct-31-22	Review and revise meeting minutes.	0.30	105.00	ASC
	Totals	6.35	\$1,245.00	

Total Fees, Disbursements

\$1,245.00

Previous Balance

\$9,178.35

Previous Payments

\$0.00

Balance Due Now

By/Date Received: SE 11-15-22

By/Date Posted: 11/15/22 **\$10,423.35**

Approved for Payment: [Signature]

Mailed By/Date: [Signature]

GL#: 6820

Please note that Anthony Corbett's rate will increase to \$400.00 per hour effective November 1, 2022.

McLean & Howard, L.L.P.

4301 Bull Creek Road
Suite 150
Austin, TX 78731

Ph: 512-328-2008

Fax: 512-328-2409

New Sweden MUD No. 1
mary@bottdouthitt.com

November 30, 2022

Attention:

File #: 2934-001
Inv #: 44613

RE: General

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Nov-07-22	Arrange for agenda posting. Contact consultants regarding backup material. Prepare and distribute Board packets.	2.50	300.00	LJH
Nov-10-22	Conference with D. Nairne regarding City comments to MUD Development Agreement and retail water service issues.	0.90	360.00	ASC
Nov-14-22	Prepare for and participate in Board of Directors' meeting. Participate in subsequent meeting with developer representative (Tom Anker) regarding project issues.	1.30	520.00	ASC
	Attend Board meeting. Draft minutes from Board meeting and update District files. Arrange for recordation of District Information Form. Coordinate finalizing the Order Canvassing the Election with Bond Counsel.	3.00	360.00	LJH
Nov-15-22	Arrange for execution of voter affidavits and certificates of posting.	0.50	60.00	LJH
Nov-16-22	Arrange for recordation and filing of Order Canvassing Election Returns.	0.50	60.00	LJH
Nov-17-22	Review City of Pflugerville revisions to MUD Development Agreement. Participate in conferences with D. Nairne regarding same. Prepare revised draft MUD Development Agreement.	3.10	1,240.00	ASC
Nov-18-22	Review and revise amended draft Strategic Partnership Agreement and MUD Development Agreement with City of	2.90	1,160.00	ASC

By/Date Received: 10/12/22
By/Date Posted: _____
Approved for Payment: [Signature]
Hand Delivered to: _____
Mailed By/Date: _____ 9 of 18
GL#: 6820

Pflugerville.

Nov-21-22	Revise MUD Development Agreement based on developer comments.	0.80	320.00	ASC
Nov-22-22	Review election documents. Follow up regarding voter affidavit. Update District Registration Form and file it with TCEQ.	1.00	120.00	LJH
Nov-23-22	Revise draft restated MUD Utility and Development Agreement with City of Pflugerville.	1.60	640.00	ASC
	Totals	18.10	<u>\$5,140.00</u>	

DISBURSEMENTS

Disbursements

Receipts

Nov-08-22	Photocopies (456 x \$0.15 - \$68.40)	68.40	
Nov-14-22	Recording of District Information Form	74.90	
Nov-16-22	Recording of Order Canvassing Returns	78.90	
	Totals	<u>\$222.20</u>	<u>\$0.00</u>

Total Fees, Disbursements

\$5,362.20

Previous Balance

\$10,423.35

Previous Payments

\$5,807.50

Balance Due Now

\$9,978.05

McLean & Howard, L.L.P.

4301 Bull Creek Road
Suite 150
Austin, TX 78731

Ph:512-328-2008

Fax:512-328-2409

New Sweden MUD No. 1
mary@botttdouthitt.com

December 31, 2022

Attention: File #: 2934-001
Inv #: 44875

RE: General

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Dec-05-22	Participate in conference with special condemnation counsel relating to easement acquisition.	0.90	360.00	ASC
Dec-09-22	Prepare for and participate in conference with developer representatives regarding MUD and Development Agreement matters.	1.20	480.00	ASC
Dec-10-22	Prepare revised draft Amended and Restated Development Agreement. Transmit to MUD and developer representatives.	2.30	920.00	ASC
Dec-17-22	Convert Wastewater Agreement into a Wholesale Wastewater Service Agreement.	2.80	1,120.00	ASC
	Totals	7.20	\$2,880.00	

DISBURSEMENTS	Disbursements	Receipts
Nov-14-22 Lunch for Board meeting	235.26	
Totals	\$235.26	\$0.00

By/Date Received: DA 1-16-23
By/Date Posted: _____
Approved for Payment: [Signature]
Hand Delivered to: _____
Mailed By/Date: _____
GL#: 6820 11 of 18

Total Fees, Disbursements	\$3,115.26
Previous Balance	\$9,978.05
Previous Payments	\$0.00
Balance Due Now	\$13,093.31

McLean & Howard, L.L.P.

4301 Bull Creek Road

Suite 150

Austin, TX 78731

Ph: 512-328-2008

Fax: 512-328-2409

New Sweden MUD No. 1
mary@bottdouthitt.com

January 31, 2023

Attention:

File #: 2934-001

Inv #: 45048

RE: General

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-02-23	Revise Wholesale Wastewater Agreement with City of Pflugerville based on comments received. Transmit same.	2.20	880.00	ASC
	Revise Development Agreement with City of Pflugerville. Transmit same.	1.40	560.00	ASC
	Totals	3.60	\$1,440.00	
	Total Fees, Disbursements			\$1,440.00
	Previous Balance			\$13,093.31
	Previous Payments			\$0.00
	Balance Due Now			\$14,533.31

By/Date Received: 10/28/23

By/Date Posted: _____

Approved for Payment: [Signature]

Hand Delivered to: _____

Mailed By/Date: _____

GL#: 6820

Bookkeeper's Account Expenditures

Texas Municipal League
New Sweden M.U.D./Bookkeepers Account
Date Type Reference
12/1/2022 Bill 3070

Original Amt.
1,151.50

Balance Due
1,151.50

12/21/2022

Discount

Check Amount

Payment
1,151.50
1,151.50

1093

Cash - Bookkeepers

1,151.50

New Sweden M.U.D./Bookkeepers Account

1094

-

1/25/2023

United States Treasury

Medicare Company

6.51

Medicare Employee

6.51

Medicare Employee Addl Tax

Social Security Company

27.90

Social Security Employee

27.90

Cash - Bookkeepers 22-3945954

68.82

Form **941 for 2022: Employer's QUARTERLY Federal Tax Return**
 (Rev. June 2022) Department of the Treasury — Internal Revenue Service

950122
 OMB No. 1545-0029

Employer identification number (EIN) **22-3945954**

Name (not your trade name) **New Sweden MUD No 1 - GOF**

Trade name (if any)

Address **PO Box 2445**
 Number Street Suite or room number

Round Rock **TX** **78680**
 City State ZIP code

Foreign country name Foreign province/county Foreign postal code

Report for this Quarter of 2022
 (Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Go to www.irs.gov/Form941 for instructions and the latest information.

REV 01/17/23 QBDT

Read the separate instructions before you complete Form 941. Type or print within the boxes.

Part 1: Answer these questions for this quarter.

1 Number of employees who received wages, tips, or other compensation for the pay period including: June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) 1

2 Wages, tips, and other compensation 2

3 Federal income tax withheld from wages, tips, and other compensation 3

4 If no wages, tips, and other compensation are subject to social security or Medicare tax Check and go to line 6.

	Column 1		Column 2
5a Taxable social security wages*	<input type="text" value="450.00"/>	× 0.124 =	<input type="text" value="55.80"/>
5a (i) Qualified sick leave wages*	<input type="text"/>	× 0.062 =	<input type="text"/>
5a (ii) Qualified family leave wages*	<input type="text"/>	× 0.062 =	<input type="text"/>
5b Taxable social security tips	<input type="text"/>	× 0.124 =	<input type="text"/>
5c Taxable Medicare wages & tips.	<input type="text" value="450.00"/>	× 0.029 =	<input type="text" value="13.05"/>
5d Taxable wages & tips subject to Additional Medicare Tax withholding <input type="text"/>		× 0.009 =	<input type="text"/>
5e Total social security and Medicare taxes. Add Column 2 from lines 5a, 5a(i), 5a(ii), 5b, 5c, and 5d			<input type="text" value="68.85"/>
5f Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)			<input type="text"/>
6 Total taxes before adjustments. Add lines 3, 5e, and 5f			<input type="text" value="68.85"/>
7 Current quarter's adjustment for fractions of cents			<input type="text" value="-0.03"/>
8 Current quarter's adjustment for sick pay			<input type="text"/>
9 Current quarter's adjustments for tips and group-term life insurance			<input type="text"/>
10 Total taxes after adjustments. Combine lines 6 through 9			<input type="text" value="68.82"/>
11a Qualified small business payroll tax credit for increasing research activities. Attach Form 8974			<input type="text"/>
11b Nonrefundable portion of credit for qualified sick and family leave wages for leave taken before April 1, 2021			<input type="text"/>
11c Reserved for future use			<input type="text"/>

**Include taxable qualified sick and family leave wages paid in this quarter of 2022 for leave taken after March 31, 2021, and before October 1, 2021, on line 5a. Use lines 5a(i) and 5a(ii) only for taxable qualified sick and family leave wages paid in this quarter of 2022 for leave taken after March 31, 2020, and before April 1, 2021.*