

PROPOSED
WHOLESALE WASTEWATER CONTRACT BETWEEN
CITY OF DALLAS AND TOWN OF ADDISON

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THIS WHOLESALE WASTEWATER CONTRACT ("Contract") is made and entered into this the ____ day of _____, 2014, by and between the CITY OF DALLAS, a Texas home rule municipality (hereinafter called "Dallas"), and the TOWN OF ADDISON, a Texas home rule municipality (hereinafter called "Customer").

WHEREAS, Customer currently purchases wholesale wastewater services from Dallas, and Dallas currently provides wholesale wastewater services to Customer as set forth under the terms, covenants, and conditions stated in the Current Contract; and

WHEREAS, Customer desires to continue to contract with Dallas for wholesale wastewater treatment services and Dallas desires to continue to provide wholesale wastewater treatment service to Customer; and

WHEREAS, from time to time, both Dallas and Customer have need to request the other to furnish water and/or wastewater service to each other's customers along common boundary lines wherein only one of the parties has facilities available; and

WHEREAS, the Current Contract with Dallas will expire on March 21, 2014; and

WHEREAS, Dallas desires to enter into a new wholesale wastewater contract with Customer and reciprocal water and wastewater agreement;

NOW, THEREFORE, Dallas and Customer, in consideration of the mutual terms, covenants, and conditions contained in this Contract, agree as follows:

1.0 DEFINITIONS

1.1 "BOD" (BIOCHEMICAL OXYGEN DEMAND) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g. mg/L).

1.2 "Calibration" means to check, adjust, or standardize instrumentation for accuracy using internal systems, specialized calibration equipment, or velocity tests.

1.3 “Current Contract” means that certain Wholesale Wastewater Contract effective March 21, 1984, by and between Dallas and Customer.

1.4 “Customer’s System” means the publicly-owned facilities of Customer for collection and transportation of wastewater to the Point of Entry and any publicly-owned facilities of Customer used exclusively or primarily for the pre-treatment of Industrial Waste.

1.5 “Dallas System” or “System” means the wastewater collection and treatment system, the Publicly Owned Treatment Works (sometimes referred to as the “P.O.T.W.”), owned and operated by Dallas.

1.6 “Delivery Facilities” means all publicly-owned facilities of Customer (transmission mains, valves, manholes, and other similar facilities and appurtenances) necessary for transmission of wastewater to the Dallas System. The term includes facilities which are on the Customer side of the metering facility which are constructed specifically to allow Dallas to serve Customer. The term excludes metering facilities.

1.7 “Director” means the Director of the Department of Dallas Water Utilities or the Director’s designated representative.

1.8 “Incompatible Waste” means substances that are not amenable to the treatment processes which will interfere with the operation of the Dallas System P.O.T.W., including interference with the use or disposal of municipal sludge, and pollutants that will pass through the treatment works unchanged by the treatment processes.

1.9 “Industrial Waste” means all wastewater or other water-borne solids, liquids, grease, sand, or gaseous substances resulting from an industrial, manufacturing, or food processing operation, from the operation of a food service establishment, from the development of a natural resource, or from any other nondomestic source, or any mixture of these substances with water or normal domestic wastewater.

1.10 “Industry” means a person or establishment that is recognized and identified in the 1972 Standard Industrial Classification Manual, Executive Office of the President: Office of Management and Budget.

1.11 “Infiltration Water” means water that has migrated from the ground into the wastewater system.

1.12 “Inflow” means water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewer catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

1.13 “Interference” means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the wastewater system, its treatment processes or operations, or its sludge processes, use, or disposal.

1.14 “Metering Facility” means the meter, meter vault, and all metering and telemetering equipment required to provide wastewater service to the Customer at the point of entry.

1.15 “Normal Domestic Wastewater” means wastewater normally discharged from the commodes or sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm or ground water and Industrial Waste.

1.16 “Point of Entry” means the location of the metering facility or, where no metering facility is utilized, the Dallas city limits line, where wastewater leaves Customer’s System and enters into the Dallas System.

1.17 “Pretreatment Standards” means pollutant concentration discharge limitation requirements stipulated in Chapter 49 of the Dallas City Code and the Customer’s City Code as hereinafter amended, and national pretreatment standards, including but not limited to prohibitive discharge limits established pursuant to Title 40, Code of Federal Regulations, Part 403.5, as amended.

1.18 “Prohibited Substance” means substances that are prohibited from being discharged into Dallas’ System and Customer’s System as listed in Chapter 49 of the Dallas City Code and the Customer’s City Code as hereinafter amended, except that if more stringent pretreatment standards are promulgated for certain industrial users by the United States Environmental Protection Agency, the more stringent Federal regulations shall apply to that class of sewer users.

1.19 “Regulations Governing Connections” means all terms of this Contract and federal, state, and local civil, administrative and criminal statutes, ordinances, rules and regulations, however adopted or enacted, which relate to the installation and connection to the connections, meters and laterals of a wastewater system.

1.20 “Significant Industrial User” means an industrial user that is subject to categorical pretreatment standards under Title 40, Code of Federal Regulations, Part 403.6, as amended, and Title 40, Code of Federal Regulations, Chapter I, Subchapter N, as amended, or:

(i) discharges 25,000 gallons per day or more of process wastewater into Dallas’ wastewater system, excluding sanitary, noncontact cooling, and boiler blowdown wastewater;

Comment [A1]: Revised from 50,000 g/d to 25,000 g/d

(ii) contributes a process wastestream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant of wastewater system; or

Comment [A2]: New language to address pretreatment requirements

(iii) is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the wastewater system’s operation or for violating any pretreatment standard or requirement in accordance with Title 40, Code of Federal Regulations, Part 403.8(f)(6), as amended.

Comment [A3]: New language to address pretreatment requirements

1.21 "State Rules" means Texas Commission on Environmental Quality Rules, Chapter 217 - Design Criteria for Domestic Wastewater Systems, as amended.

1.22 "Surcharge Rate" means a rate calculated so as to include a charge for either BOD or TSS or both in excess of 250 milligrams per liter (mg/l) or limits as approved by the Dallas City Council.

Comment [A4]: New language

1.23 "TSS" (TOTAL SUSPENDED SOLIDS) means solids that either float on the surface of, or are suspended in, water, wastewater, or other liquids and that, in accordance with standard methods, are removable by a standard, specific laboratory filtration device.

1.24 "Wastewater" means water-carried waste.

1.25 "Winter Months" means the billing months of December, January, February, and March.

2.0 DELIVERY AND METERING FACILITIES

2.1 Delivery Point. Dallas agrees to accept wastewater from Customer at the point(s) of entry delineated in Exhibit B, attached to and made a part of this Contract, and at such additional points as may later be mutually agreed upon by both parties.

2.2 Cost of Delivery Facilities. The cost of all delivery facilities necessary to convey wastewater to designated points of entry and connect Customer's System to the Dallas System whether delineated in Exhibit B or mutually agreed upon at a later date, shall be borne by Customer. Unless otherwise mutually agreed to by Dallas and Customer, Customer shall be responsible for the design, according to Dallas' standard requirements, contracting, construction, and financing of delivery facilities and acquisition of any necessary rights-of-way.

2.3 Oversizing of Delivery Facilities – Dallas Request. Dallas may elect to require oversizing of the delivery facilities for the benefit of Dallas or other parties. If Dallas elects to oversize delivery facilities, Dallas shall be responsible for the oversizing costs to the extent of the documented difference in costs between the size of Customer's required delivery facilities and the oversize specified by Dallas.

2.4 Approval of Plans; Inspection. All designs, materials, and specifications shall conform to Dallas requirements and shall be submitted to Dallas for written approval. Customer agrees that Dallas has the right to make periodic inspections during the construction phase of the delivery facilities. Final acceptance of completed delivery facilities is subject to the written approval of Dallas. Dallas agrees that any approval or consent of Dallas or the Director required by this section shall not be unreasonably withheld or delayed.

2.5 Meters and Meter Vaults. Unless otherwise agreed by both parties, Customer shall design and construct meter vaults, meters, and all associated facilities at each point of entry. Dallas shall obtain power and telemetry service in connection therewith, if needed. Replacement of metering facilities occasioned by obsolescence due to age or excessive maintenance, as determined by Dallas,

shall be the responsibility of Dallas. Replacement of metering facilities necessary due to growth or reasons other than obsolescence due to age or excessive maintenance, as determined by Dallas, shall be at the cost and the responsibility of Customer, and it will be subject to the approval of Dallas.

2.6 Property and Rights-of-Way. Customer shall acquire all property, easements, or rights-of-way necessary for construction of metering and delivery facilities located on the Dallas side of the metering facility.

2.7 Conveyance of Facilities to Dallas. Customer agrees that after final inspection and approval by the Director of metering and delivery facilities located on the Dallas side of the metering facility, Customer shall convey title to those facilities and property, easements, or rights-of-way in conjunction therewith to Dallas. Upon Customer's conveyance of title of the property and facilities by appropriate instrument and acceptance by Dallas of the property and facilities, Dallas shall be responsible for operation and maintenance of the metering facilities and any delivery facilities located on the Dallas side of the metering facility.

2.8 Additional Delivery Points. Customer may at any time during the term of this Contract request additional Delivery Points under this Contract. The additional Delivery Points are subject to approval by the Director and shall, when so approved in writing, be deemed to be made a part of this Contract, thereby amending Exhibit B of this Contract without need for a further written supplemental agreement or Dallas City Council approval.

Comment [A5]: New language

3.0 METER MAINTENANCE AND TESTING

3.1 Accuracy of Meters. It shall be the duty of either party to this Contract to notify the other party in the event that a meter is registering inaccurately or malfunctioning so that the meter can be promptly repaired. Either party shall have the right to test a meter. Notification of a proposed test shall be provided at least 24 hours prior to conduct of the test, except in the case of emergencies. Either party shall have the right to witness meter tests. If Customer requires an independent testing service be used, Customer shall pay the cost of the testing service upfront. If the results of the independent testing reveal the meter was not measuring within a generally accepted accuracy rate (+ or - 10%) of the existing reading, Dallas shall reimburse the Customer for the cost of the testing service.

3.2 Meter Calibration. Dallas shall calibrate and routinely service the meters no less than once during each six-month period or as recommended by the meter manufacturer. Calibration shall be accomplished according to Dallas' standard methods. Customer shall be notified of proposed calibrations and may observe if so desired.

3.3 Meter Registration. If, for any reason, any meter is out of service or inoperative, or if, upon any test, any meter is found to be inaccurate, registration thereof shall be corrected. Correction of inaccurate meter registration will normally be based on the most recent correct registration, if such is reasonably ascertainable. Alternatively, Customer and Dallas may agree to use future meter registrations as the basis for correction. If future registrations are to be used as a basis for correction, Dallas shall be allowed to bill Customer based on estimated amounts prior to rendering a corrected

billing. In no event will corrected billings be made for periods in excess of three billing periods prior to notification of meter inaccuracy.

3.4 Check Meter. Customer may, at its option and its own expense, if approved by Dallas, install and operate a check meter to monitor the Dallas meter, but the measurement of wastewater flow delivered to the Dallas System for the purpose of this Contract shall be based solely on Dallas' meters, except as otherwise provided herein. Customer's installation of check meters shall not interfere with operation of the Dallas wastewater collection system or Dallas metering equipment. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of Dallas. The reading, calibration and adjustment of the check meter shall be made only by Customer, except during any period when a check meter may be used under specific written consent by Dallas for measuring the amount of wastewater delivered into the System, in which case the reading, calibration and adjustment thereof shall be made by Dallas with like effect as if such check meter or meters had been furnished or installed by Dallas.

4.0 RATES AND PAYMENT

4.1 Setting of Charges by Dallas Ordinance. Rates charged Customer shall be established by ordinance of Dallas. The capital costs contributed by the Customer for Delivery Facilities and metering facilities shall be excluded from the rate base.

4.2 Rate Setting Method; Notice of Change. Rates shall be established according to the "Wastewater Rate Guidelines" contained in Exhibit A, incorporated herein, as if copied word for word and made a part of this Contract. Customer understands that the Dallas City Council has the right to change, by ordinance, the rates charged as needed to cover all reasonable, actual and expected costs. Any change of rates shall be pursuant to principles set forth in the Wastewater Rate Guidelines. Dallas shall give Customer a minimum of six (6) months written notice of intent to change rates. Dallas will furnish Customer a draft copy of the Cost of Service Study for Proposed Rates thirty (30) days prior to Dallas submitting a rate increase request to its City Council.

When the Director of Dallas Water Utilities determines that wastewater metering is not feasible, Customer shall pay Dallas for wastewater service based on average winter month water consumption for those connections discharging into the Dallas wastewater system, at the rate provided in the prevailing ordinances of Dallas subject to increase or decrease without formal amendment of this Contract, as said ordinances might be amended from time to time. (Water consumption billings for the months of December, January, February, and March shall constitute the winter months.). The calculation of wastewater discharged shall be as follows:

100% water consumption for applicable connections for winter months divided by 4=
Average Winter Month Water Consumption.

Average Winter Month Water Consumption multiplied by the infiltration and inflow adjustment factor as provided by the prevailing ordinances of Dallas as multiplied by the City of Dallas' prevailing Ordinance Rate = Amount Due Monthly

Customer understands and agrees that the wastewater entering the Dallas System emanating from any source whatsoever must be given treatment and handling, whether or not its source is revenue producing for Customer. Therefore, Customer agrees to pay for infiltration and inflow without abatement in the same manner and cost as other wastewater.

4.3 Customer Protest. Customer agrees to give Dallas a minimum of thirty (30) days notice of its intent to protest rates, or any other condition of service. Provided, however, that Customer is not required to give a thirty (30) day notice of intent to appear before Dallas City Council to protest cost of service studies.

4.4 Monthly Invoice.

Each month during the term of this Contract, Dallas agrees to deliver to Customer a statement of charges setting forth the amount of wastewater delivered to Dallas for treatment for the period covered by the statement and any past due amounts carried over from prior invoices (including accrued interest) ("the Monthly Statement"). Payment is due upon receipt of the Monthly Statement. Customer agrees to pay promptly.

4.5 Late Payment. Customer agrees that a payment is deemed late if received by Dallas more than 30 days after the date of the Monthly Statement. Late payments shall accrue interest at the interest rate provided in Section 2-1.1 of the Dallas City Code, as amended, or as authorized by Ch. 2251 of the Texas Government Code, as amended, whichever applies. If any money due and owing by Customer to Dallas is placed with an attorney for collection, Customer agrees to pay to Dallas, in addition to all other payments provided for by this Contract, including interest, Dallas' collection expenses, including court costs and reasonable attorney's fees.

Comment [A6]: New provision

4.6 Malfunctioning Meter; Estimated Payments. In the event a meter(s) is discovered to be malfunctioning, the amount of Wastewater that has passed through the meter will be estimated for each day the meter was not functioning correctly. The last correctly measured monthly flow, or estimated flow, as set forth in Section 3.3 of this Contract, will be used as a basis for computing the amount of Wastewater treated on behalf of the Customer during the time the meter was not functioning correctly.

4.7 Disputed Charges. Dallas and Customer agree that any disputed charges on the Monthly Statement shall be protested and resolved in accordance with Texas Government Code Section 2251.042, as amended. Customer agrees that in the event it disputes any portion of the charges on a Monthly Statement, Customer will timely pay any undisputed amount in accordance with Section 4.4.

5.0 WASTEWATER QUALITY

5.1 Industrial Wastes and Prohibited Substances.

Customer agrees that Dallas has the responsibility and authority to establish:

- (i) the types and quantities of discharges that are prohibited for entry into the Dallas System;
- (ii) discharge prohibitions for certain substances, as may be amended from time to time; and
- (iii) pretreatment requirements for industries that discharge prohibited substances.

Customer shall require all Significant Industrial Users that ultimately discharge into the Dallas System to obtain an industrial waste discharge permit. The permit shall require Significant Industrial Users to abate prohibited substances from their waste stream and pretreat wastewater and process wastewater where necessary as a condition of allowing the discharge of the wastewater into Customer's System. The permit application shall, at a minimum, contain the following information:

- (i) a description of the activities, structures, equipment, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could be, discharged into the wastewater system;
- (ii) the site plans, floor plans, and mechanical and plumbing plans of the facility with sufficient detail to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (iii) the number and type of employees and proposed or actual hours of operation of the facility;
- (iv) a list of each product produced by type, the amount of the product produced, the process or processes used to produce the product, and the rate of production;
- (v) the type and amount of raw materials processed (average and maximum per day);
- (vi) the time and duration of discharges;
- (vii) a certification statement complying with the requirements of Section 49-51(m) of the Dallas City Code, as amended, and signed by a designated authorized representative of the applicant;
- (viii) self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of the pollutants to be monitored, sampling location and frequency, and sample type, based on the applicable general pretreatment standards, categorical pretreatment standards, local limits, and the regulations of state law and Chapter 49 of the Dallas City Code, as amended; and
- (ix) best management practices if required by the pretreatment standards.

Comment [A7]: New provisions to address pretreatment requirements. Includes updated application requirements

Dallas shall be provided with a copy of the application and permit within thirty (30) days after permit issuance.

Comment [A8]: Revised to 30 days from 14 days.

Customer agrees to conform to the water quality and pretreatment regulations contained in Exhibit D, attached to and made a part of this Contract.

Customer agrees to seek injunctive or other appropriate relief against industrial discharge sources whose discharge causes Interference, poses an imminent danger to public health, or when the specific industry is not making sufficient progress toward completing a required and approved pretreatment system.

Dallas Water Utilities' Pretreatment and Laboratory Services Division (or another division as designated by the Director) shall be provided with copies of all industrial monitoring data and pretreatment enforcement actions by Customer each fiscal quarter.

5.2 Sampling and Testing

For the purpose of determining the type and strength of discharges, Customer agrees that Dallas shall have the right to sample wastewater discharges at:

- (i) the site of the discharge;
- (ii) the point or points of entry of the discharge into Customer's System; and
- (iii) other locations as required.

Customer shall provide all possible assistance to Dallas in obtaining access to sampling points.

Customer agrees that any individual customer found in violation of allowable discharges or any individual customer who refuses access for the purpose of sampling shall be disconnected from Customer's System and the Dallas System. Provided however, that the violating individual customer shall be afforded the same rights, privileges of appeal, and deficiency cure periods as are customers operating within Dallas boundaries and under authority of Dallas ordinances.

In addition to other samples taken and tests made on an as-required basis, Dallas shall regularly take twenty-four (24) hour composite samples of wastewater discharges at points of entry no less frequently than semiannually. Costs of sampling and testing shall be borne by Customer. Customer may request that Dallas perform other tests in addition to those tests required by Dallas. Should Customer request additional testing and Dallas agrees to provide the additional testing, Customer shall reimburse Dallas for the cost of those tests.

Customer shall be provided with a copy of each sample test within thirty (30) days after the date of taking of the sample.

All samples shall be analyzed in accordance with the latest edition of Standard Methods of Examination of Water and Wastewater, published by the American Public Health Association, Inc., or the U.S. EPA (40 CFR Part 136) approved methods.

6.0 RATES FOR EXCESS STRENGTH DISCHARGES

6.1 Additional Charge

If the Customer's wastewater discharge at the Point of Entry is determined to contain concentrations of BOD and/or TSS in excess of the allowable discharge strengths, the Customer shall be required to pay a wastewater surcharge fee in addition to the wholesale wastewater treatment fee assessed under Section 4.0 "RATES AND PAYMENT" of this Contract.

At the effective date of this Contract, the allowable discharge strength is 250 mg/l for BOD and 250 mg/l for TSS. Customer agrees that the Dallas City Council has the right to revise, by ordinance, the allowable discharge strengths.

BOD and TSS strength determination will be based on a minimum of seven (7) days of averaged lab data.

Customer shall pay Dallas for concentrations of BOD and TSS exceeding 250 mg/l at the rate provided in the prevailing ordinances of the City of Dallas, subject to increase or decrease without formal amendment of this Contract, as said ordinance might be amended from time-to-time. The wastewater surcharge fee will be calculated every month based on the BOD and TSS lab test results for that month. The surcharge fee will be assessed for the entire month in which the Customer's BOD or TSS exceeded 250 mg/l.

6.2 Calculation of Additional Amounts Due for Excess Strength

The wastewater surcharge fee shall be calculated in accordance with the Dallas City Code Chapter 49. Any future ordinance changes related to the calculation of wastewater surcharges shall apply to this Contract as if in effect at the effective date of this Contract. Provided, however, that Customer shall be provided copies of future applicable ordinances and shall have an opportunity to review and comment on same before the ordinances are formally adopted by the Dallas City Council.

Comment [A9]: Revised language. Existing contracts include the actual formula for calculating additional amounts due for excess strength.

7.0 QUANTITY AT POINT OF ENTRY

It is understood and agreed that Dallas and Customer have an obligation to prevent entrance of infiltration and inflow into Customer's System and thence into the Dallas System. Customer therefore agrees that all wastewater connections to Customer's System which ultimately bring the flow of Customer's wastewater into the Dallas System will be constructed with a permanent type material, carefully bedded to prevent over-stressing of the material and utilizing a joint which will provide a permanent water-tight connection. Customer agrees that each such installation shall pass an air test performed in accordance with applicable A.S.T.M. Standards and shall be done under the supervision of Customer's authorized representative at the time of installation. All tests shall be at

Customer's expense. Each building lateral which interconnects private property to Customer's System shall be excluded from the air test requirements.

Customer agrees that the physical connection of each service line to Customer's System shall be the responsibility of Customer and shall not be left to the discretion of the plumber or contractor unless the plumber or contractor is under the direct supervision of, or whose work is inspected by, Customer's authorized representative. Customer further covenants that all future trunk wastewater lines added to Customer's System which ultimately discharge into the Dallas System shall be:

(i) built in accordance with appropriate State of Texas design criteria, including infiltration/exfiltration limitations; and

(ii) subjected, in representative sections of each new line, to an air test or infiltration or exfiltration test at the time of installation, at the option of Dallas and at the sole expense of Customer, to assure the State design criteria standards are met.

Customer also covenants that it will maintain strict supervision and maintenance of the Customer's System to prevent connections such as all roof drains or any other means by which surface drainage can enter Customer's System and thence the Dallas System.

8.0 PROTECTION OF WASTEWATER SYSTEM

It is mutually understood and agreed that only employees, agents, or contractors of Customer shall be permitted to work on or make connections to those elements of the Customer's System which ultimately discharge into the Dallas System. Only qualified plumbers licensed by the State of Texas shall be permitted to work on building laterals entering into those elements of the Customer's System which discharge into the Dallas System. It is further mutually understood and agreed, however, that this provision shall be waived in the event that personnel of Dallas Water Utilities Department find it necessary to enter Customer's jurisdiction while performing their duties. Free access shall be provided to those Dallas personnel in the pursuit of their duties.

It is mutually understood and agreed that Customer will maintain a careful inspection of Customer's System and will exercise diligence and care in the maintenance of Customer's System and in the installation of connections and laterals that may be connected with Customer's System in order that the Dallas System not be burdened with excess discharge during rainy and wet weather. Customer shall provide Dallas with annual reports regarding implementation of the maintenance plan, as provided in Section 12 of this Contract, and copies of any reports required to be filed with a state or federal agency relating to Customer's System.

Comment [A10]: New requirement related to maintenance plan.

Laterals to private dwellings and public, commercial, or industrial buildings constructed in Customer's wastewater drainage area after the effective date of this Contract shall be of materials jointly approved by Dallas and Customer. Each building lateral which interconnects private property to Customer's System shall pass a water test meeting minimum standards of the State Rules for wastewater collection systems.

Customer understands, agrees and acknowledges that it has a continuing duty to provide for and enforce the Regulations Governing Connections. Failure of Customer to comply with this duty shall be sufficient grounds for Dallas, at its sole option, to restrict, limit, or terminate receipt of wastewater flow from Customer to the extent Dallas deems necessary in order to protect the Dallas System from damage due to excessive flows or flows containing a high concentration of Incompatible Wastes. Dallas shall provide thirty (30) days written notice to Customer outlining the specific violation(s) prior to such restriction, limitation or termination, unless immediate action is necessary as set forth below, if Customer fails to correct all such violation(s) within thirty (30) days of the date of the notice. In the event of an emergency that imminently threatens Interference or damage to any portion of the Dallas System, or otherwise imminently threatens Dallas' employees or the general public health and safety, Dallas may restrict, limit, or terminate wastewater flow by telephone notice to Customer.

Comment [A11]: New requirement

9.0 LIABILITY FOR DAMAGES AND RESPONSIBILITY FOR TREATMENT AND DISPOSAL OF WASTEWATER

Liability for damages arising from the reception, transportation, delivery, and disposal of all wastewater discharged by Customer under this Contract shall remain with Customer up to and through the Customer side of the Point of Entry. With exception of Incompatible Wastes or wastewater deemed to be a cause of Interference, upon passage through the Point of Entry into the Dallas side, liability for damages and the handling and treatment of the wastewater discharged by Customer shall belong to Dallas. As between the parties and to the extent allowed by law, without waiving any sovereign governmental immunity available to each party, Dallas and Customer agree to release, save, and hold the other party harmless from all claims, demands, and causes of action which may be asserted by any person on account of the reception, transportation, delivery, and disposal while wastewater is in the respective control of either Dallas or Customer. Dallas takes the responsibility, as between the parties, for the proper reception, transportation, treatment, and disposal of all wastewater received by Dallas from Customer at the Point of Entry. The provisions of this Section 9 are solely for the benefit of the parties to this Contract and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

10.0 ACCESS

10.1 Access to Dallas Facilities. Customer agrees to provide ingress and egress to Customer's property located within Customer's incorporated city limits for employees, contractors, and agents of Dallas to install, operate, inspect, test, and maintain facilities and read meters owned or maintained by Dallas; provided, however, Dallas' employees, contractors, and agents shall at all times comply with Customer's policies regarding security and safety as may be adopted from time to time by Customer for the purpose of safeguarding Customer's System.

10.2 Access to Customer Facilities. Dallas agrees to provide ingress and egress to Dallas' property located within Dallas' incorporated limits for employees, contractors, and agents of Customer to install, operate, inspect, test, and maintain facilities and read meters owned or maintained by Customer; provided, however, Customer's employees, contractors, and agents shall at all times comply with Dallas' policies regarding security and safety as may be adopted from time to

time by Dallas for the purpose of safeguarding the Dallas System.

11.0 CUSTOMER TO PROVIDE DATA

11.1 Classification of Customers.

Customer shall provide the following data to Dallas not later than January 15th of each year during the term of this Contract:

- (A) Actual number of Customer accounts feeding into the Dallas System.
- (B) Classification, by number and percentage, of accounts feeding into the Dallas System according to the following:
 - (i) Residential;
 - (ii) Multi-family;
 - (iii) Business/Commercial/Industrial (class and entity type shall be specified, e.g., restaurant, chemical manufacturer, etc.); and
 - (iv) Other

11.2 Water Consumption. Customer shall provide data and supporting documentation on total water consumption for accounts feeding into the Dallas System during the four winter billing months (December, January, February and March) to Dallas not later than the 15th of April of each year. Billing months need not be calendar months. Where available, this total consumption should be separated into consumption by type of account as listed in Section 11.1 (B) (i-iv) of this Contract.

11.3 Additional Data Requirements. Customer may be required to provide additional data as revised methodology for cost of service studies is developed. Provided, however, that Dallas shall not request data that will require Customer to incur unreasonable expenses in providing such data, except as otherwise provided in this Contract.

Comment [A12]: New language

12.0 WASTEWATER MASTER AND MAINTENANCE PLANS

(A) Master Plan. Customer agrees to provide a comprehensive wastewater master plan to Dallas within three years of the effective date of this Contract. The master plan shall include, but shall not be limited to:

- (i) population data, present and projected;
- (ii) geography and topography data;
- (iii) current and proposed treatment processes;

- (iv) treatment alternatives;
- (v) existing and projected discharge flows into the Dallas System;
- (vi) existing and planned wastewater collection system maps in digital format;
- (vii) existing and projected treated water usage for area which discharges into the Dallas System;
- (viii) existing and projected zoning (Residential, Industrial, Commercial) for area which discharges into the Dallas System;
- (ix) future development plans; and
- (x) other data or information as is deemed necessary by the Director.

Comment [A13]: New requirements

Customer agrees that the initial plan shall be for a twenty-year period. Customer further agrees that the plan shall be reviewed jointly by Dallas and Customer and, if necessary, revised by Customer at five year intervals.

The initial submittal requirement is waived if Customer has provided a plan acceptable to Dallas within the last five years.

(B) Maintenance Plan. Customer agrees to provide a comprehensive wastewater operations and maintenance plan to Dallas within three years of the effective date of this Contract. The operations and maintenance plan must be updated not less than every five (5) years, or as necessary to ensure compliance with the terms of this Contract. The operations and maintenance plan should be based on best management practices for capacity, management, operations and maintenance (CMOM) and may include the following:

- (i) Wastewater Collection System Map in digital format
- (ii) Wastewater Collection System Inventory and Identification of Physical Attributes
- (iii) Wastewater Collection System Condition Assessment
- (iv) Wastewater Collection System Capacity Evaluation under wet and dry weather flow conditions
- (v) Capital Improvement Program (CIP) Plan to repair, replace, rehabilitate and improve wastewater system components based on condition and performance
- (vi) Annual goals for TV inspection and cleaning efforts.
- (vii) Identification of the chemical(s) used for cleaning mains
- (viii) Description of public outreach program to reduce grease and illegal connections

- (ix) Description of program(s) to reduce inflow and infiltration (I/I) in the Customer's system since I/I eventually outfalls to the City of Dallas
- (x) Description of program to identify illegal connections (e.g., roof and street drainage which is connected to the wastewater collection system)
- (xi) Pretreatment program to inspect the discharge of large industrial users

Comment [A14]: New requirement.

13.0 PAYMENTS TO CONSTITUTE OPERATING EXPENSES BY CUSTOMER

Customer represents and covenants that the services to be obtained pursuant to this Contract are essential and necessary to the operation of Customer and its local wastewater facilities, and that all payments to be made hereunder by it will constitute reasonable and necessary "operating expenses" of City's waterworks and wastewater systems, within the meaning of Chapter 1502, Texas Government Code, and the provisions of all ordinances authorizing the issuance of all revenue bond issues of Customer which are payable from revenues of Customer's waterworks and sewer systems. Customer agrees throughout the term of this Contract to continuously operate and maintain its waterworks and sewer system and to fix and collect such rates and charges for wastewater services to be supplied by Customer's waterworks and sewer system as will produce revenues in an amount equal to at least (i) all of its payments under this Contract and (ii) all other amounts as required by the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding.

14.0 RIGHTS TO RETURN FLOWS

Customer understands, acknowledges, and agrees that Customer shall acquire no water rights or title or right to the use, reuse, or recycling of wastewater diverted, entering or delivered to Dallas' wastewater system.

Comment [A15]: New language.

15.0 FORCE MAJEURE; INDEMNITY; REMEDIES; NO WARRANTIES

15.1 Force Majeure. Neither party shall be liable to the other party for any failure, delay, or interruption in the performance of any of the terms, covenants, or conditions of this Contract due to causes beyond their respective control or because of applicable law, including, but not limited to, war, nuclear disaster, strikes, boycotts, labor disputes, embargoes, acts of God, acts of the public enemy, acts of superior governmental authority, floods, riots, rebellion, sabotage, terrorism, or any other circumstance for which a party is not legally responsible or which is not reasonably within its power to control. The affected party's obligation shall be suspended during the continuance of the inability then claimed, but for no longer period. To the extent possible, the party shall endeavor to remove or overcome the inability claimed with all reasonable dispatch.

15.2 Indemnification. To the extent allowed by Texas law, Customer agrees to defend, indemnify and hold Dallas, its officers, agents and employees, harmless from any liability in claims, administrative proceedings or lawsuits for judgments, penalties, fines, costs, expenses and attorney's fees for personal injury (including death), property damage, or other harm for which recovery of damages is sought or suffered by any person or persons for violations of state or federal laws or regulations, that may arise out of or be occasioned by: (i) a breach of this Contract by Customer; (ii)

the negligent act or omission of Customer in the performance of this Contract or in Customer's day-to-day wastewater utility operation; or (iii) the conduct of Customer that constitutes a violation of state or federal laws or regulations. Provided, however, that the indemnity stated above shall not apply to any liability resulting from Dallas' sole violation of a state or federal law or regulation or from the sole negligence of Dallas, its officers, agents, employees or separate contractors, and in the event of the joint and concurring responsibility of the Customer and Dallas, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the law of the State of Texas, without waiving governmental immunity or any other defenses of the parties under applicable Texas law. The provisions of this paragraph are solely for the benefit of the parties to this Contract and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

15.3 Equitable Remedies. Recognizing that Dallas' and Customer's undertakings as provided in this Contract are obligations, the failure in the performance of which cannot be adequately compensated in money damages, Dallas and Customer agree that, in the event of any default, the other party shall have available to it the equitable remedy of specific performance in addition to other legal or equitable remedies which may be available to such party.

16.0 COMPLIANCE WITH LAWS AND REGULATIONS; REGULATORY BODIES

This Contract is entered into subject to and controlled by the Charter and ordinances of the City of Dallas and all applicable laws, rules, and regulations of the State of Texas and the Government of the United States of America. Dallas and Customer shall, during the course of performance of this Contract, comply with all applicable State and Federal laws, rules and regulations, as amended.

Dallas must comply with all Federal, State and local government requirements to obtain grants and assistance for system construction, studies, and other similar activities. Customer is required to assist Dallas in compliance by setting adequate rates and complying with governmental requirements, including, but not limited to, the requirements set forth in this Contract.

17.0 PUBLICATIONS, REFERENCE WORKS, GOVERNMENTAL REGULATIONS

In each instance herein where reference is made to a publication, reference work or Federal or State regulation, it is the intention of the parties that, at any given time, the then current edition of any such publication or reference work or Federal or State regulation shall apply. If a publication or reference work is discontinued or ceases to be the generally accepted work in its field or if conditions change or new methods or processes are implemented by Dallas, new standards shall be adopted which are in compliance with State and Federal laws and any valid rules and regulations pursuant thereto.

18.0 TERMINATION

Should Customer desire to partially or totally discontinue using the Dallas System, Customer shall, for five (5) years or the balance of this Contract, whichever is less, remain liable for

wastewater charges at the billing level in effect at such cessation.

This obligation, once established, shall serve as liquidated damages and is intended to compensate Dallas for the expenditures incurred on Customer's behalf for the cost to provide additional wastewater transmission, treatment, and disposal facilities. Provided, however, that Dallas may waive Customer's obligation in the event of nominal reductions based on Customer's plans if Dallas has received prior notice of the plans and concurred in the reduction. It is agreed by the parties that such liquidated damages are a reasonable substitute for compensatory damages which are difficult or impossible to calculate herein. This obligation is intended by the parties not to be a penalty, but instead, a reasonable measure of damages.

Dallas shall have the right to terminate this agreement if Customer is more than six (6) months delinquent in any payments required to be made to Dallas under this Contract, or is in material breach of any obligation Customer has under this Contract.

19.0 TERM OF CONTRACT

The term of this Contract shall commence as of the date of its execution, which is also the date of the resolution of the Dallas City Council approving this Contract, and shall remain in effect for a period of thirty (30) years.

20.0. CONTRACT ADMINISTRATION

This Contract shall be administered on behalf of Dallas by the Director and on behalf of Customer by its authorized official or designated representative.

Comment [A16]: New provision

21.0 NOTICES

Except as otherwise provided in Section 22.0, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If to Dallas:

Director of Water Utilities
City of Dallas
1500 Marilla Street, Room 4/A/North
Dallas, Texas 75201

If to Customer:

City Manager
Town of Addison
5300 Beltline Road
Dallas, Texas 75254

22.0 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of Section 2-86 of the Dallas City Code, as

amended, relating to requirements for filing a breach of contract claim against Dallas. Section 2-86 of the Dallas City Code, as amended, is expressly incorporated by reference and made a part of this Contract as if written word for word in this Contract. Purchaser shall comply with the requirements of this ordinance as a precondition of any claim relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

Comment [A17]: New provision

23.0 VENUE

The parties agree that this Contract shall be enforceable in Dallas County, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Dallas County, Texas.

24.0 GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of any other state.

25.0 LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Contract.

26.0 CONFLICT OF INTEREST

The following section of the Charter of the City of Dallas shall be one of the conditions, and a part of, the consideration of this Contract, to wit:

“CHAPTER XXII. Sec. 11. FINANCIAL INTEREST OF EMPLOYEE OR OFFICER PROHIBITED --

(a) No officer or employee shall have any financial interest, direct or indirect, in any contract with the City or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services, except on behalf of the City as an officer or employee. Any violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit the officer's or employee's office or position with the City. Any violation of this section, with knowledge, express or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the City Council.

(b) The alleged violations of this section shall be matters to be determined either by the Trial Board in the case of employees who have the right to appeal to the Trial Board, and by the City Council in the case of other employees.

(c) The prohibitions of this section shall not apply to the participation by City employees in federally-funded housing programs, to the extent permitted by applicable federal or state law.”

For purposes of this Section 26.0, the word "City" means "City of Dallas."

27.0 GIFT TO PUBLIC SERVANT

This Contract shall be subject to the following additional provisions:

(A) Dallas may terminate this Contract immediately if Customer has offered, or agreed to confer any benefit upon a Dallas employee or official that the Dallas employee or official is prohibited by law from accepting.

(B) For purposes of this section, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(C) Notwithstanding any other legal remedies, Dallas may require Customer to remove any officer or employee of Customer from the administration of this Contract or any role in the performance of this Contract who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made as a result of the improper offer, agreement to confer, or conferring of a benefit to a Dallas employee or official.

28.0 COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed.

29.0 CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

30.0 SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this Contract, their assigns.

31. AUTHORIZATION TO ACT

By their signature below, the representatives of Dallas and Customer state that they are authorized to enter into this Contract. Dallas and Customer shall each provide documentation that this Contract has been authorized by its respective governing body.

32.0 ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

Comment [A18]: New provisions to incorporate Legal Boilerplate Language

EXECUTED and effective as of the ____ day of _____, 2014, on behalf of Dallas by its City Manager, duly authorized by City Council Resolution No. _____ adopted on _____, 2013, and approved as to form by its City Attorney; and on behalf of Customer by its duly authorized officials.

APPROVED AS TO FORM:
WARREN M.S. ERNST
City Attorney

CITY OF DALLAS
A. C. GONZALEZ
Interim City Manager

BY _____
Assistant City Attorney

BY _____
Assistant City Manager

APPROVED AS TO FORM:

CUSTOMER:
TOWN OF ADDISON

BY _____
City Attorney

BY _____
City Manager

EXHIBIT A
WASTEWATER RATE GUIDELINES

BASIS FOR RATES:

Revenue requirements will be determined by Cost-of-Service Study on a utility basis at original cost.

RATE OF RETURN:

Dallas is to receive a rate of return on rate base, equal to the embedded interest rate on wastewater revenue bonds, plus 1.5%.

RATE BASE:

The rate base shall include original cost plant investment (excluding contributed capital), construction work in progress, and a reasonable allowance of working capital, less accumulated depreciation. Working capital shall consist of an allowance for operation and maintenance (45 days or up to 1/8 annual operation and maintenance costs) and a reasonable inventory of materials and supplies necessary for the efficient operation of Dallas Water Utilities.

The rate base (common-to-all) shall include mains 18" and above, excluding all mains below this size, unless built exclusively to serve a particular city.

TEST PERIOD (OR TEST YEAR):

Normally, a recently concluded 12-month operating period adjusted for known changes, selected to be representative of the period of time over which the new rates are expected to be in effect.

DATA BASIS:

Rate period projections shall be based on operating results during the most recent fiscal year for which actual data is available.

FREQUENCY OF COST OF SERVICE STUDIES:

Adequacy of rates shall be reviewed on an annual basis. Thirty (30) days in advance of a proposed rate change, cost of service information shall be made available to Customer for review and comment.

REVISIONS TO WASTEWATER RATE GUIDELINES:

Subject to the review of the existing contracting Customers, Dallas reserves the right to revise the Wastewater Rate Guidelines.

Comment [A19]: New provision

EXHIBIT B
POINTS OF ENTRY AND METERING FACILITIES
(TO BE UPDATED BY DWU AND CUSTOMER)

Description: Customer is connected to the Dallas System at five points of entry. Three points are metered and are located along the east side of Dallas Parkway. The fourth point is unmetered and is located at the south side of Belt Line Road at White Rock Creek. The fifth point of entry is unmetered and is located south of Celestial Road and east of Montfort Drive.

Meter vaults, metering equipment, site locations and associated rights-of-way are owned and maintained by Dallas.

Each of the three metering stations is currently equipped with an ____ wastewater flow meter on a 6 inch throat venture tube and other related equipment. Each of the metering stations includes an unmetered bypass for emergency use should the meter be disabled for repairs.

A general diagram of locations and sizes of the connections is contained on the second page of this Exhibit. A description of the points of entry and metering stations follows.

POINT 1:

Location: The metered point of entry is located at 4800 Sojourn Drive at the east side of the intersection of Dallas Parkway and Sojourn Drive in the City of Dallas.

Schematic: At the point of entry, Customer's 18 inch wastewater main connects to Dallas' 18 inch wastewater main at the metering station. The metering facility is designed to measure a maximum flow of 2.5 MGD with the ability to measure future increased flows through equipment and pipe modifications.

POINT 2:

Location: The metered point of entry is located at 16220 Dallas Parkway at the east side of Dallas Parkway approximately 1,205 feet north of Keller Springs Road in the vicinity of Keller Springs Branch in the City of Dallas.

Schematic: At the point of entry, Customer's 21 inch wastewater main connects to Dallas' 20 inch wastewater main at the metering station. The metering facility is designed to measure a maximum flow of 2.5 MGD with the ability to measure future increased flows through equipment and pipe modifications.

POINT 3:

Location: The metered point of entry is located at 15652 Dallas Parkway at the east side of Dallas Parkway approximately 675 feet south of Bent Tree Forest Drive in the City of Dallas.

Schematic: At the point of entry, Customer's 21 inch wastewater main connects to Dallas' 21 inch wastewater main at the metering station. The metering facility is designed to measure a maximum flow of 2.5 MGD with the ability to measure future increased flows through equipment and pipe modifications.

POINT 4:

Location: The unmetered point of entry is located at a manhole on the south side of Belt Line Road at White Rock Creek approximately 600 feet east of Winnwood Road in the City of Dallas.

Schematic: At the point of entry, Customer's 12 inch wastewater main, which is located along the south side of Belt Line Road, connects to Dallas' 30 inch wastewater main along White Rock Creek.

POINT 4:

Location: The unmetered point of entry is located at a manhole on Dallas' 8 inch wastewater main south of and generally parallel to Celestial Road approximately 1,200 feet east of Montfort Drive in the City of Dallas.

Schematic: At the point of entry, Customer's 8 inch wastewater main extending southeastward from Celestial Place connects to Dallas' 8 inch wastewater main south of and generally parallel to Celestial Road.

Future Facilities: Should additional points of entry be agreed upon in the future, this Exhibit B will be revised to recognize these facilities. Revisions to this Exhibit B in order to add, delete, or modify points of entry or metering facilities may be authorized by the Director of DWU and do not require city council approval.

Comment [A20]: New provision.

EXHIBIT B
POINTS OF ENTRY AND METERING FACILITIES

GENERAL DIAGRAM OF CONNECTIONS:

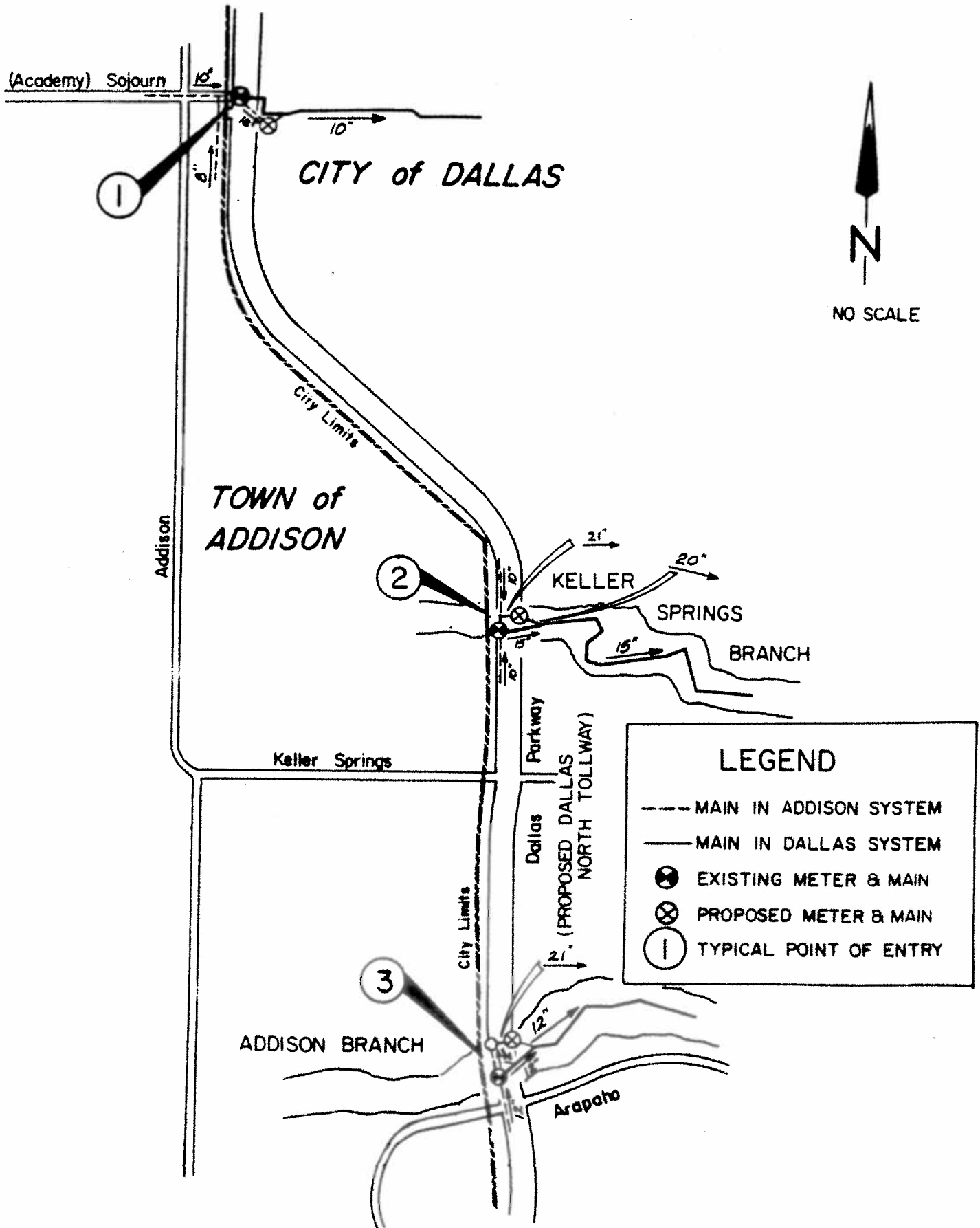


EXHIBIT C

SPECIAL CONTRACT CONDITIONS/AGREEMENTS
SUPPLEMENTAL AGREEMENTS CONCERNING STANDARD CONDITIONS
(TO BE UPDATED BY DWU TO INCORPORATE EXISTING SPECIAL CONDITIONS
AND WASTEWATER TRANSMISSION PROVISIONS)

EXHIBIT D
PRETREATMENT REGULATIONS

1. Dallas, which is the municipal entity that owns and operates the wastewater plant that the Customer is serviced by, is recognized as the Control Authority.
2. If Customer has an established pretreatment program approved by Dallas or TCEQ, then Customer agrees to enact and enforce rules requiring those users within that portion of its service area connected to the Dallas system to comply with the provisions of all applicable State and Federal regulations, as amended, as well as those portions of the Dallas Ordinances, as amended, regarding wastewater discharged substances and prohibited discharges. Customer shall perform service area surveys to maintain a current listing of industries which could have the potential to be Significant Industrial Users within that portion of Customer' service area connected to the Dallas system. The surveys should encompass field inspections, a review of building, plumbing and occupancy permits, a review of telephone or business directories for new industries, and the sampling for pollutants at industries which could have the potential of being Significant Industrial Users. Customer shall annually provide the listing of industries to Dallas. The listing should include each industry's name, address, discharged substances, pretreatments performed and violations recorded during the year.
3. If Customer does not have a pretreatment program approved by Dallas or TCEQ, then Customer agrees to enact and enforce rules or ordinances requiring those users within that portion of its service area connected to the Dallas System to comply with the provisions of Article IV, "Water Quality," of Chapter 49 of the Dallas City Code, as amended, and all applicable State and Federal regulations, as amended, including, but not limited to: (1) compliance with the requirements of a Pretreatment Program; (2) prohibited discharges; (3) discharged substances; (4) industrial discharge permit system and fact sheets; (5) industrial self-monitoring reports; (6) pretreatment plans; (7) Baseline Monitoring Reports (BMR); (8) Report on Compliance (ROC); (9) periodic compliance reports; and (10) other reports as may be required by EPA and TCEQ. Customer shall perform service area surveys to maintain a current listing of industries which could have the potential to be significant industrial users within that portion of Customer' service area connected to the Dallas System. The Industrial User Surveys or Industrial Waste Survey (IWS) should encompass field inspections, a review of building, plumbing and occupancy permits and a review of telephone or business directories for new industries. Customer shall annually provide to Dallas the listing of potential Significant Industrial Users, including their address and substances discharged during the year. At Customer's request, Dallas will perform the surveys and listing of industries, and the sampling of pollutants from industries which could have the potential to be Significant Industrial Users, and Customer shall compensate Dallas for its actual cost to provide these services. Dallas will review the IWS and inspect the businesses to determine Significant Industrial User status. Within 30 days of determining Significant Industrial User status, Dallas will notify Customer and each affected Significant Industrial User. Dallas will also provide all Pretreatment Standards and Requirements applicable to the Significant Industrial User as a result of such status.
4. Customer agrees that Dallas, as the Control Authority, has the authority to approve Customer's pretreatment program. Customer, therefore, recognizes that Dallas will follow procedures to ensure compliance with the requirements of a Pretreatment Program, including:

(a) identifying and locating all possible industrial users subject to the Pretreatment Program;

(b) identifying the character and volume of pollutants discharged by Significant Industrial Users;

(c) notifying identified industrial users of applicable Pretreatment Standards;

(d) receiving and analyzing self-monitoring reports and other notices as specified in 40CFR 403.12;

(e) analyzing sampling data for compliance with applicable limits;

(f) inspecting and randomly sampling the effluent from industrial users;

(g) evaluating whether each Significant Industrial User needs a plan or other action to control slug discharges;

(h) investigating instances of noncompliance with Pretreatment Standards and Requirements; and

(i) complying with significant noncompliance publication.

5. Customer also recognizes that Dallas will require the enforceability of pretreatment permits, each permit containing, at a minimum, the following requirements:

(a) Statement of duration (in no case more than five years).

(b) Statement of non-transferability.

(c) Effluent limits, including Best Management Practices.

(d) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, the sampling location, the sampling frequency, the sample type, and the applicable general Pretreatment Standards in 40 CFR Part 403.

(e) Statement of applicable civil and criminal penalties for violation of the Pretreatment Standards and requirements, and any applicable compliance schedule.

(f) Requirements to control Slug Discharges, if determined by the Control Authority to be necessary.

6. Customer understands and agrees that Dallas, as the Control Authority, will establish procedures for the receipt, review, and approval of permit applications for new and existing Significant Industrial Users. Dallas will send permit applications to new Significant Industrial Users and renewal applications to existing Significant Industrial Users for completion. Applications for

new Significant Industrial Users must be returned to Dallas within 30 days of receipt. An application for renewal of an existing Significant Industrial User permit must be received by Dallas 90 days prior to the expiration of the existing permit. Dallas will review the applications, prepare the permits with the appropriate pretreatment standards, including alternate categorical pretreatment standards where applicable, and submit the permits to Customer for approval. Each permit will include a fact sheet and the description of pollutants discharged by a Significant Industrial User. Upon approval, Customer will send the permit to the Significant Industrial User. Customer may add additional requirements to the permit to insure the permit holders' compliance with applicable laws and regulations. Customer may suspend or revoke a permit if it determines that the permit holder is in violation of the applicable pretreatment regulations.

7. Customer agrees that Dallas has the authority to take enforcement actions, including the right to disconnect, against specific industries violating Dallas' or Customer's industrial waste regulations and agrees to assist Dallas with enforcement actions, should enforcement by Dallas be necessary. To the extent that such authority is subject to Texas law, Customer agrees to allow Dallas to perform enforcement functions Customer could otherwise perform under applicable law on Customer's behalf, where necessary, pursuant to Article 26.175 of the Texas Water Code. Dallas shall afford Customer a reasonable amount of time to take enforcement actions itself before commencing enforcement as the "Control Authority". Dallas shall notify Customer at least 10 days prior to commencing enforcement activity as the "Control Authority", unless imminent danger or NPDES/TPDES permit violation occurs, in which case Customer will be notified of enforcement within 24 hours. Enforcement actions may include any of the following actions: issuance of a notice of violation; the halting of discharges; the termination of service; the suspension or revocation of the permit; criminal or civil enforcement actions; publication of the name of the industrial user determined to be in significant noncompliance; the issuance of administrative, consent, compliance, and cease and desist orders; and an order requiring attendance at a show cause hearing. Customer agrees to comply with the procedures outlined in Dallas' Enforcement Response Plan.

8. If Customer has an established pretreatment program approved by Dallas or TCEQ, then Customer shall perform inspections of industrial users within that portion of its service area connected to the Dallas System no less frequently than annually, and sampling at least once every six (6) months (once in the months of July through December and once in the months of January through June) and provide the results to Dallas within 30 days of the date the sampling and inspection are performed. Categorical industries must be inspected no less frequently than annually and must be monitored at least once every six (6) months (once in the months of July through December and once in the months of January through June) for at least four (4) consecutive days. Significant Industrial Users not determined to be categorical must be inspected no less frequently than annually and must be monitored at least once every six (6) months (once in the months of July through December and once in the months of January through June) for at least two (2) consecutive days. If violations occur, monitoring frequency must increase. Monitoring is to continue until three consecutive months of sampling indicate compliance.

9. If Customer does not have a pretreatment program approved by Dallas or TCEQ, then Dallas shall perform the inspection of industrial users within that portion of Customer's service area connected to the Dallas System no less frequently than annually and sampling at least once every six (6) months (once in the months of July through December and once in the months of January through

June) for at least two (2) consecutive days for Significant Industrial Users regulated under local limits. For categorical industries, Dallas will inspect no less frequently than annually and sampling at least once every six (6) months (once in the months of July through December and once in the months of January through June) for at least four (4) consecutive days. Dallas will provide the sampling results to Customer within 30 days of the date of performing the sampling and inspection. Customer shall compensate Dallas for its actual cost of providing this service. Customer will follow procedures for handling anticipated bypass according to provisions outlined in Customer's wastewater regulations codified in **(INFO TO BE PROVIDED BY CUSTOMER)**.

10. Customer agrees that if an industrial user is seeking a categorical determination concerning the applicability of a particular subcategory under the national categorical pretreatment standards, the final determination issued under Title 40, Code of Federal Regulations, Part 403.6, as amended, shall control the application of the appropriate subcategory. There shall be no right or procedure implied under contract for an industrial user or Customer to seek such a categorical determination from Dallas, other than through the procedures and requirements outlined in Title 40, Code of Federal Regulations, Part 403.6, as amended.

11. Customer agrees to require that industrial users meet the following reporting requirements of Title 40, Code of Federal Regulations, Part 403, as amended: (1) baseline monitoring reporting, (2) 90-Day ROC; (3) compliance schedule progress reports, (4) reports on compliance with categorical pretreatment standard deadlines; (5) periodic compliance reports in July and January; (6) notification of changed conditions; (7) reports of accidental (slug) discharges; (8) reports from non-permitted users; (9) submission of self-monitoring reports and violations based on self-monitoring; (10) notification of the discharge of hazardous waste; (11) analytical requirements; (12) sample collections; (13) adherence to the date reports deemed received; and (14) certification and signatory requirements. All reports must be submitted to Dallas for review and approval. Customer and industrial users will comply with the record keeping requirements contained in the pretreatment regulations and, at a minimum, retain all records for a minimum of three (3) years.

12. All samples shall be taken and analyzed in accordance with the latest edition of Title 40, Code of Federal Regulations, Part 136, as amended, or other methods approved by TCEQ if not found in Title 40, Code of Federal Regulations, Part 136, as amended. Customer and industrial users' sampling and self-monitoring data shall comply with Dallas' Standard Operating Procedures for sampling which includes quality assurance/quality control procedures and chain-of-custody requirements. In addition, Customer and industrial users may use National Environmental Laboratory Accreditation Conference's (NELAC) certified water and wastewater analytical laboratories for the sampling and analysis of samples.

13. Customer and Dallas agree to maintain confidentiality of industrial user information as specified in state and federal law. An industrial user who asserts the trade secret exception to disclosure under Chapter 552 of the Texas Government Code (the Public Information Act) must clearly mark "confidential business information" on each page that contains proprietary information. Documents submitted with words stamped "confidential business information" will be treated in accordance with the procedures of Title 40 Code of Federal Regulations, Part 403.14, as amended. However, information not stamped "confidential business information" and effluent data will be available to the public without restriction.

EXHIBIT E

RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT

I. RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR SINGLE FAMILY RESIDENCES OR DUPLEXES – WHEN SERVICING ENTITY HAS MAINS IN PLACE

The City of Dallas, Texas, hereinafter called “Dallas” and the Town of Addison, hereinafter called “Customer”, hereby mutually agree, that when mains of the servicing entity are currently in place, to provide water and/or wastewater service to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either party to the other, provided that neither party will be required to provide such service to customers of the other party if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said entity.

The class of service contemplated by this Paragraph 1 anticipates a temporary connection until such time as the entity requesting service will have water and/or wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the entity in which the potential customer is located.

Nothing contained in this Agreement shall require that either entity will be compelled to accept a customer classed under this Paragraph 1 after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

- A. Service will be provided to single family residences or duplexes situated on no more than one acre of land located immediately adjacent to the common boundary.
- B. The entity providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer so served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries and who are in the same category of service.
- C. The customer being served will be required to pay all applicable fees related to the services provided including a connection service charge to the entity furnishing service. The connection service charge shall be the then current amount established by the servicing entity's ordinances. If a service charge is not specified by the current ordinances for the size or type service to be provided, the service charge shall be the servicing entity's actual cost for rendering the service.

2. RECIPROCAL WATER AND/OR WASTEWATER SERVICE AGREEMENT FOR: (1) SINGLE FAMILY RESIDENCES OR DUPLEXES WHERE MAINS ARE NOT IN PLACE, (2) COMMERCIAL AND INDUSTRIAL COMPLEXES, (3) RESIDENTIAL SUBDIVISIONS, APARTMENTS OR TOWNHOUSES AND OTHER MULTI-DWELLING RESIDENTIAL UNITS.

Dallas and Customer hereby mutually agree to provide temporary water or wastewater service, or both, to customers along the public streets, roadways, alleys and easements forming a common city limit boundary of Dallas and Customer upon written request of either entity to the other, provided that neither entity will be required to provide such service to customers of the other entity if doing so would result in a need for substantial construction or diminution of the level of service being provided to other customers of said entity.

The class of service contemplated by this Paragraph 2 anticipates a temporary connection until such time as the entity requesting service will have water and/or wastewater mains available. This category of service requires consideration on an individual case basis. Determination will be rendered upon written request being made by the entity in which the potential customer is located. Nothing contained in this Agreement shall require that either entity will be compelled to accept a customer classed under this Paragraph 2 after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

A. Service will be provided to the following type customers whose properties are located immediately adjacent to or in reasonable proximity of the common boundary:

- (1) Single family residences or duplexes where mains are not in place.
- (2) Individual commercial and industrial properties containing no more than 200,000 square feet of building floor space, provided that commercial or industrial facilities in excess of 200,000 square feet consuming only nominal amounts of water or contributing only nominal amounts of wastewater may be considered as an exception to this provision.
- (3) Specific residential subdivisions consisting of no more than 20 single family units and apartment complexes, townhouses or other types of multiple dwelling units consisting of no more than 35 single family units in the immediate area for which service is being requested.

B. The entity providing the water and/or wastewater service contemplated under this Paragraph shall charge the customer served the same rates and associated charges as charged customers whose property lies within its own areas and boundaries and who are in the same category of service.

C. As a precondition of receiving service, the customer being served may also be required to pay all or part of the costs determined to be necessary to extend service and to pay the normal service charges for the type service being offered. Applicability of costs of extending service

shall be determined by the officials designated in Paragraph 4.B. of this Agreement. Normal service costs will be determined as contemplated by Paragraph 1.C. All construction work shall meet the specifications of the entity within whose boundaries the facilities are constructed.

3. TEMPORARY RECIPROCAL SERVICES PROVIDED (1) DIRECTLY TO BORDERING CITIES AND (2) TO COMMERCIAL, INDUSTRIAL OR OTHER COMPLEXES NOT CONTEMPLATED BY PARAGRAPH 2.

When services are requested and it is determined by the entity from which service is requested that the service is appropriate and can be offered without diminution of the level of service being provided to other customers of the servicing entity, Dallas and Customer hereby mutually agree to provide temporary water and/or wastewater service on a reciprocal basis when (1) the service to be furnished is to be provided directly to the reciprocating entity as the customer or, (2) the service to be furnished is for a commercial, industrial, or other customer not meeting the criteria for service consideration in Paragraph 2.

The class of service contemplated by this Paragraph 3 shall be offered at the option of the servicing entity. Determination of service feasibility will be rendered upon written request being made by the entity requiring service. Nothing contained in this Agreement shall require that either entity will be compelled to offer service after a determination by the servicing entity that service is not economical or otherwise not in the best interest of the servicing entity.

The entity providing the water or wastewater service contemplated under this Paragraph shall charge the customer served the same rate and associated charges as charged customers whose property lies within its own areas and boundaries.

The entity requesting the service shall pay full cost of any extension, facilities or improvements required to make the service available. The amount of the charges shall be determined by the officials designated in Paragraph 4.B. of this Agreement. All construction work shall meet the specifications of the entity within whose boundaries the facilities are constructed.

4. GENERAL TERMS AND CONDITIONS

Service will be provided from mains in the public streets, roadways, alleys and easements existing along the common boundaries of Dallas and Customer under the following terms and conditions, which shall apply equally to either entity:

- A. Neither party to this Agreement is obligated to provide water or wastewater service to the other party, and each party has the right to refuse to provide water or wastewater service, under this Agreement, to the other party.
- B. The entity requiring services shall initiate the request for reciprocal services by forwarding a written request for service. The request shall be accompanied by a map which identifies the

location of the proposed properties. Approval of requests for service shall be in writing and will be forwarded or approved by the following:

If for Dallas:

Dallas Water Utilities
Director of Utilities
1500 Marilla Street, Room 4/A/N
Dallas, Texas 75201

If for Customer:

Town of Addison
Attn: City Manager
5300 Beltline Road
Dallas, Texas 75254

- C. Meter boxes, service lines, laterals and other facilities necessary to provide service shall, upon installation, become the property of the entity furnishing service if accepted or agreed to by said entity.
- D. The customer to be served will sign a contract with the entity furnishing service, agreeing to abide by all the ordinances of that entity which relate to the furnishing of said service.
- E. The entity requesting service under this Agreement hereby grants to the entity providing such service authorization to go upon the public streets, roadways, alleys and easements of the former entity for the purpose of installing, maintaining and removing such facilities as are necessary to provide service.

Customer agrees that, with prior written approval of Customer, Dallas may use streets, alleys and public rights-of-way within Customer's boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Customer or to other customers without charges or tolls, provided that Dallas makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of the conveyance or license Customer duly grants for such purposes.

Dallas agrees that, with prior written approval of Dallas, Customer may use streets, alleys and public rights-of-way within Dallas' boundaries for the purposes detailed in this Agreement to provide retail water and wastewater service to Customer or to other customers without charges or tolls, provided that Customer makes the necessary repairs to restore the streets, alleys or public rights-of-way used to their original condition. Such use and repairs shall be pursuant to the terms and conditions of a license duly granted by the Dallas City Council.

- F. If at any time the entity requesting service under this Agreement shall construct a main capable of providing water and/or wastewater service to any customer being served under the terms of this Agreement, then upon request, the entity so providing the service shall terminate same, reserving the right to remove its meters and materials from the property previously served; provided, the customer shall have a reasonable time, not to exceed one month, to connect to the new service.

G. In the cases where a customer receives water service from one entity and wastewater service from the other, the entity furnishing water service will provide the other entity with monthly meter readings and water consumption information on such customers and will permit appropriate employees of the entity furnishing wastewater service to read and examine the meters serving such customers to determine the accuracy of readings so furnished and to permit appropriate employees of the entity furnishing wastewater service to examine water consumption records of such customers, provided that no meter shall be removed or adjusted except by the entity furnishing water service.

5. CLAIMS OF LIABILITY

It is further mutually agreed by Dallas and Customer that insofar as the services contemplated hereunder are performed by either entity within the jurisdiction of the other entity and to that extent only, Dallas and Customer hereby mutually agree that they will release, hold harmless and defend the other entity from all claims of liability which result from damage to property (real or personal) or persons arising directly or indirectly from the performance of the services provided for under this Agreement.

6. TERMINATION OR MODIFICATION

This Agreement is to remain in force for the term of the Contract to which it is attached.