Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 18, 2014

Ms. Bridget Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2013-1459-UCR; Consideration of a request for a Commission order approving a Contract Service Agreement designating service areas between New Caney Municipal Utility District, Convenience and Necessity ("CCN") Nos. 11969 and 20575, and White Oak Developers, Inc, CCN Nos. 12894 and 20859. Application Nos. 37521-C and 37522-C.

Dear Ms. Bohac:

Transmitted herewith for filing with the Texas Commission on Environmental Quality ("Commission" or "TCEQ") are the following items to be filed as backup materials for the August 6, 2014, Agenda on a request for an order approving a Contract Service Agreement ("Agreement") designating water and sewer service areas between New Caney Municipal Utility District ("New Caney") and the White Oak Developers, Inc. ("White Oak"):

1. Proposed Order;
2. Agenda Executive Summary;
3. Caption;
4. Staff memo detailing financial, managerial, and technical capabilities of New Caney to provide continuous and adequate service to the affected area;
5. Request for Commission order approving a Texas Water Code Section 13.248 Agreement filed by New Caney on January 25 2013, and declared administratively complete on February14, 2013;
6. Texas Water Code, Section 13.248 Agreement between New Caney and White Oak executed on July 21, 2011
7. Certificate of Convenience and Necessity ("CCN") Nos. 11969, 20575, 12894, and 20859;
8. Proposed maps of the service area subject to Texas Water Section 13.248;
9. Notice Mailed to Parties; and
10. Consent forms signed by representatives for both New Caney and White Oak giving approval to the ED for the above final maps.

Please do not hesitate to contact me at (512) 239-0602 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully Submitted,

Hollis Henley
Staff Attorney
Environmental Law Division

Enclosures

cc: Mailing list

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ DOCKET NO. 2013-1459-UCR
APPLICATION NOS. 37521-C & 37522-C

IN THE MATTER OF THE REQUEST FOR AN ORDER APPROVING THE CONTRACT DESIGNATING SERVICE AREAS BETWEEN NEW CANEY MUNICIPAL UTILITY DISTRICT AND WHITE OAK DEVELOPERS, INC. IN MONTGOMERY COUNTY, TEXAS	§ § § § § § § §	**BEFORE THE TEXAS** **COMMISSION ON** **ENVIRONMENTAL QUALITY**

ORDER

A request for a Commission Order approving a contract designating water and sewer service areas in Montgomery County between New Caney Municipal Utility District ("New Caney"), Certificate of Convenience and Necessity ("CCN") Nos. 11969 and 20575, and White Oak Developers, Inc. ("White Oak"), CCN Nos. 12894 and 20859, was presented to the Texas Commission on Environmental Quality (Commission) for approval pursuant to Texas Water Code Section 13.248 and Title 30 of the Texas Administrative Code, Section 291.117 and 291.120.

On July 21, 2011, New Caney and White Oak executed an agreement ("Agreement") regarding their respective water and sewer service areas. The Agreement addresses the transfer of White Oak's authority to provide water and sewer service to approximately 71.25 acres and provides that New Caney will be the sole provider of retail water and sewer service in that service area. There are no customers in the area to be transferred. The Agreement is attached to this Order.

Contracts between retail public utilities that designate areas to be served and customers to be served by those retail public utilities, when approved by the Commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity. TEXAS WATER CODE §13.248.

The Commission held a hearing on the request at the August 6, 2014, agenda and found the request had merit.

New Caney is capable of rendering continuous and adequate water and sewer service to every customer in the area covered by the Agreement. The decertification of White Oak's authority to provide service in the affected area, which results in New Caney being the sole service provider remaining in the area, is necessary for the service, accommodation, convenience, and safety of the public.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

The Agreement addressing the transfer of portions of White Oak's CCN Nos. 12894 and 20859 and designating that retail water and sewer service shall be provided by New Caney's CCN Nos. 11969 and 20575 in those areas is hereby approved.

CCN Nos. 11969 and 20575 in Montgomery County, held by New Caney Municipal Utility District, are hereby amended in accordance with the Agreement.

CCN Nos. 12894 and 20859 in Montgomery County, held by White Oak Developers, Inc., are hereby amended in accordance with the Agreement.

The Executive Director is directed to redraw the maps of the respective CCNs as provided in the Agreement and as set forth on the maps attached to this Order, and to amend the Commission's official water and sewer service area map for Montgomery

County, Texas. The certificate amendment requested in this application is necessary for the service, accommodation, convenience, and safety of the public.

The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

_____

For the Commission

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Texas Commission on Environmental Quality **DATE:** July 18, 2014

THRU: Bridget Bohac, Chief Clerk

FROM: Hollis Henley, Staff Attorney, Environmental Law Division

SUBJECT: TCEQ Docket No. 2013-1459-UCR. Consideration of a request for a Commission order approving a contract designating service areas between New Caney Municipal Utility District and the White Oak Developers, Inc. Application Nos. 37521-C and 37522-C.

DESCRIPTION OF APPLICATION

Applicant:	New Caney Municipal Utility District
Regulated Activity:	Retail water and sewer utility service
Type of Application:	Request for a Commission Order approving a Contract Service Agreement
Commission Action:	Hearing regarding approval of the Contract Service
Authority:	Texas Water Code § 13.248 and 30 Texas Administrative Code § 291.117

FACTUAL BACKGROUND

New Caney Municipal Utility District ("New Caney"), water Certificate of Convenience and Necessity ("CCN") No. 11969 and sewer CNN No. 20575, and White Oak Developers, Inc. ("White Oak"), water CCN No. 12894 and sewer CNN No. 20859, provide retail water and sewer service in Montgomery County, Texas. On July 21, 2011, New Caney and White Oak entered into an Annexation Agreement ("Agreement") regarding their respective water and sewer service areas pursuant to Section 13.248 of the Texas Water Code. Under the Agreement, White Oaks will transfer approximately 71.25 acres from its water CCN No. 12894 and sewer CCN No. 20859 to New Caney, thereby incorporating the area into New Caney's water CCN No. 11969 and sewer CCN No. 20575. According to the Contract, the 71.25 acre tract has no water and sewer utility lines in place.

Finally, the parties were provided with a copy of the CCN maps that will be attached to the order. The parties have consented that the maps are accurate with regards to the proposed areas.

LEGAL AUTHORITY

The Texas Water Code prohibits a utility, a utility operated by an affected county, or a water supply corporation from rendering retail water or sewer utility service directly or indirectly to the public without first obtaining a CCN.[1] Conversely, a municipality is not required to obtain a CCN to provide retail water or sewer service.[2] However, a municipality may not provide service to areas that are outside of its corporate boundaries but within the CCN of another retail public utility without first obtaining written consent from that retail public utility.[3]

The Texas Water Code and TCEQ rules allow retail public utilities to enter into service area agreements and have the Commission affirm the agreements by amending the entities' respective CCNs.[4] A transfer of a water or sewer system that also includes the transfer of customers and/or facilities may, in some cases, also require separate Commission approval for the transfer of customers and/or facilities.[5]

The request to approve a 13.248 agreement is not subject to the notice provisions of Section 291.106, Title 30 of the Texas Administrative Code, which apply to applications for new and amended CCNs. The Commission may approve the service area agreement pursuant to section 13.248 of the Texas Water Code with the appropriate notice under the Open Meetings Act. The Executive Director will mail notice of the hearing upon the setting of an Agenda date.

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[1] TEX. WATER CODE ANN. § 13.242(a).

[2] A municipality is a "retail public utility" under section 13.002(19) of the Texas Water Code but is not a "utility" under section 13.002(23). Therefore, the section 13.242(a) requirement that a "utility" must obtain a CCN before providing retail water or sewer utility service does not apply to a municipality.

[3] TEX. WATER CODE ANN. § 13.242(b).

[4] *Id.* § 13.248; 30 TEX. ADMIN. CODE § 291.117 (West 2005)(Tex. Comm'n on Envtl. Quality, Contracts Valid and Enforceable). Section 13.248 states "[c]ontracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity."

[5] TEX. WATER CODE ANN. § 13.301. The section requires that some applicants also demonstrate "adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to the person" for the separate transaction relating to the transfer of facilities and/or customers.

BASIS FOR STAFF RECOMMENDATION

The following items were considered in developing the staff's recommendation:

1. Request for a Commission order approving the 13.248 agreement filed by New Caney on January 25, 2013 (Application Nos. 37521-C and 37522-C);

2. Agreement between New Caney and White Oak, executed on July 21, 2011;

3. Financial, Managerial, and Technical analysis of New Caney to operate in the affected areas.

4. Consent forms signed by representatives for both New Caney and White Oak which give approval to the ED for the above final maps.

STAFF RECOMMENDATION

Based upon the facts stated in the application and the supporting documentation submitted by New Caney and White Oak, staff supports the request for a Commission order approving a contract transferring this portion of White Oak's water and sewer service area to New Caney. Staff has confirmed that both parties are retail public utilities with active water and sewer CCNs and that the area the parties are seeking to transfer abuts the CCN of the entity receiving the CCN. Further, staff is satisfied that New Caney possesses the adequate financial, managerial, and technical capability to provide continuous and adequate service to the area being transferred. Finally, the parties have reviewed the ED's proposed final maps and have signed consent forms showing approval for the proposed maps.

STAFF CONTACTS

Hollis Henley, Environmental Law Division (512-239-0602)
John Lock, Water Supply Division (512-239-4710)

CAPTION

New Caney Municipal Utility District
Application Nos. 37521-C and 37522-C

TCEQ Docket No. 2013-1459-UCR. Consideration of a request for a Commission Order approving an Annexation Agreement ("Agreement) designating service areas between New Caney Municipal Utility District ("New Caney"), water Certificate of Convenience and Necessity (CCN) No. 11969 and sewer CCN No. 20575, and White Oak Developers, Inc. ("White Oak"), water CCN No. 12894 and sewer CCN No. 20859, in Montgomery County, Texas, pursuant to section 13.248 of the Texas Water Code. Currently, White Oak holds water and sewer CCNs for the area covered by the Agreement. Under the Agreement, White Oak will transfer approximately 71.25 acres to New Caney. New Caney will be the sole retail water and sewer service provide in this area. There are no customers in this area and there will be no transfer of facilities under the Agreement. (Hollis Henley, John Lock)

TCEQ Interoffice Memorandum

To: Environmental Law Division **Date:** February 28, 2013

Thru: John Lock/Lisa Fuentes

From: Debi Loockerman, CPA

Subject: Contract Service Agreement Pursuant to Texas Water Code, §13.248, from New Caney Municipal Utility District (MUD), Certificate of Convenience and Necessity (CCN) No. 11969, to Transfer a Portion of CCN No. 12894 held by White Oak Developers, Inc. (White Oak), in Montgomery County; Application No. 37521-C

Contract Service Agreement Pursuant to Texas Water Code, §13.248, from New Caney MUD, CCN No. 20575, to Transfer a Portion of CCN No. 20859 held by White Oak, in Montgomery County; Application No. 37522-C

CN: 600686505; RN:101251551(water) 102691037(sewer) (New Caney MUD)
CN: 600889893; RN:102688637(water) 101652071(sewer)(White Oak Developers, Inc.)

In my opinion, the applicants, New Caney MUD and White Oak Developers, Inc., have demonstrated adequate financial and managerial capability to provide service to the areas contracted for transfer. These conclusions are based on information provided by the applicant prior to this date and may not reflect any changes in the applicant's status subsequent to this date.

Review

Pursuant to the agreement in the application, White Oak Developers, Inc. agrees to release and transfer to New Caney MUD, 71.247 acres located immediately adjacent to the boundary line the New Caney MUD, with annexation approval by the City of Houston. The area being transferred requires no additional infrastructure at this time because no service is currently being provided. White Oak is inactive according to the water utilities database. There is no financial impact White Oak Developers, Inc. for operations, because there are no water/wastewater operations currently on the subject property. Furthermore, the transfer will remove White Oak's responsibility to serve within the area. No ratios are available for White Oak because it is not currently operating.

New Caney MUD: A copy of New Caney MUD's 2012 audited financial statements was available in the Districts program area. McCall Gibson Swedlund Barfoot PLLC, Certified Public Accountants (CPA) issued an unqualified opinion on MUD's financial statement. According to the 2012 financial statements, New Caney MUD serves 3,384 active water connections and 3,052 active sewer connections.

The balance sheet indicates total noncurrent liabilities for the MUD were $18.4 million. Total net assets for the district were 12.1 million which produces a debt to equity ratio is, therefore, $18.4 million to $12.1 or 1.52 to 1. Less than a 1 to 1 ratio is preferred when analyzing the financial and managerial capabilities with regard to service abilities granted by a CCN. The MUD does not meet the TCEQ staff preferred maximum ratio. However, the MUD has infrastructure in place to serve, with the exception of line extensions to the subject area. The MUD is currently taxing at $0.71 per 1,000. Water rates begin at $10 with an inclining block rate structure. Both taxes and rates could be increased to produce additional revenues. Staff believes these facts are sufficient to produce financial capability even with an insufficient debt to equity ratio. Furthermore, money for infrastructure can also be obtained through developer contributions. The subject area is 71 acres. New Caney has over 8,900 acres in both its water and sewer CCNs currently and the added area is less than 1% of the area it already serves, which is not material to overall operations.

Debt service coverage (DSC) was calculated as follows: Revenues less expenditures before depreciation and capital outlays were $1.6 million (funds available for debt service). Debt service for the year 2013 as indicated in note 3 to the financial statements is $1.3 million. Therefore, DSC equals $1.6 million to $1.3 million, or 1.23 to 1. A DSC of 1.25 to 1 or higher is preferred, so that the entity may build up a cash reserve to reduce risk of default. However, the MUD has cash and short term investments totaling $3.6 million, which is almost three times annual debt service, which is sufficient. Because of the size of this transaction relative to the MUD as a whole and other facts with regard to the MUD and transaction, staff believes the MUD has the financial and managerial capability to provide service to the area subject to this application.

JON C. PFENNIG, P.C.
ATTORNEY AT LAW
1300 Rollingbrook, Suite 606
Baytown, Texas 77521
P.O. Box 269
Baytown, Texas 77522-0269

Telephone: (832) 556-0059
Facsimile: (832) 556-0062

jcpfennig@pfenniglaw.com

RECEIVED
JAN 25 2013
UTILITIES & DISTRICTS SECTION

January 22, 2013

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P.O. Box 13087
Austin, Texas 78711-3087

ATTN: Kristy Nguyen

RE: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from New Caney Municipal Utility District (MUD), Certificate of Convenience and Necessity (CCN) Nos. 11969 and 20575, to Transfer CCN Nos. 12894 and 20859 held by White Oak Developers, Inc., to New Caney MUD, in Montgomery County

CN 600686505;	RN 101251551 (water)
	RN 102691037 (sewer) (New Caney MUD)
CN 600889893;	RN 102688637 (water)
	RN 101652071 (sewer) (White Oak Developers Inc.)

Dear Ms. Nguyen:

The purpose of this correspondence is to resubmit our request that a portion of property under CCN No.s 12894 and 20859 presently held by White Oak Developers, Inc. be transferred to New Caney Municipal Utility District under CCN No. 11969 and 20575. The holders of respective CCN's are agreed to the transfer as evidenced by the enclosed agreements and maps. The property to be transferred is located immediately adjacent to property within New Caney Municipal Utility District's CCN's and not presently served by any utility company and has no service lines or sewer facility in place.

Please advise of any additional information needed to process this application.

Sincerely,

Jon C. Pfennig
Attorney at Law

JCP/krh
Enclosure

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

ANNEXATION AGREEMENT

WHEREAS, White Oak Developers, Inc. is the owner of a 71.247 acre tract in Montgomery County, Texas, being described by metes and boundaries in Exhibit "A" attached hereto, that is within the boundaries of CCN Nos. 20859 and 12894; and

WHEREAS, the 71.247 acre tract has no water and sewer utility lines in place; and

WHEREAS, the 71.247 acre tract is located immediately adjacent to the boundary line of New Caney Municipal Utility District that holds CCN Nos. 11969 and 20575 for water and sewer service; and

WHEREAS, White Oak Developers, Inc. desires to have New Caney Municipal Utility District provide water and sewer services to the 71.247 acre tract; and

WHEREAS, New Caney Municipal Utility District is willing to provide water and sewer service to the 71.247 acre tract;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, White Oak Developers, Inc. and New Caney Municipal Utility District hereby covenant and agree as follows:

1. New Caney Municipal Utility district and White Oak Developers, Inc. shall file a petition for New Caney Municipal Utility District to annex the 71.247 acre tract and seek approval of the City of Houston for such annexation and the approval of Texas Commission on Environmental Quality ("TCEQ") for the heretofore 71.247 acre tract from the CCN Nos. 20859 and 12894 and to CCN's held by New Caney Municipal Utility District, to wit: 11969 and 20575.

2. Upon approval of the City of Houston and TCEQ, New Caney Municipal Utility District shall complete annexation of the 71.247 acre tract.

3. Upon New Caney Municipal Utility District's annexation of the 71.247 acre tract, White Oak Developers, Inc., will at its sole cost and expense, install water and sewer service lines on the 71.247 acre tract in accordance with specification and inspections required by the rules of New Caney Municipal Utility District and thereafter shall transfer ownership of such service lines together with easements deemed adequate by New Caney Municipal Utility District to ownership of New Caney Municipal Utility District.

4. From and after completion of annexation of the 71.247 acre tract, the owners thereof shall be subject to compliance with all rules of New Caney Municipal Utility District and

responsible to pay its ratable share of the public obligations of New Caney Municipal Utility District.

5. This agreement is made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas; as such laws are now in effect. The Parties acknowledge that this Agreement is performable in Montgomery County, Texas and hereby submit to the jurisdiction of the state courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.

6. This document contains the complete agreement of the parties and it may be amended only by written instrument executed by both parties.

7. This agreement may be executed in multiple copies for the use and convenience of the parties.

Dated the 21st day of July, 2011.

WHITE OAK DEVELOPERS, INC.

William E. Dark

William E. Dark, President

NEW CANEY MUNICIPAL UTILITY DISTRICT

Steve Bush, President

ATTEST:

Dorothy Rawlinson, Secretary

(DISTRICT SEAL)

NEW CANEY MUNICIPAL UTILITY DISTRICT OF MONTGOMERY COUNTY

DESCRIPTION

71.247 acres of land situated in the Wiatt Anderson Survey, Abstract Number 49, Montgomery County, Texas, being a portion of that certain called 316.719 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, said 71.247 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod with cap found for the Northwesterly corner of said 316.719 acre tract and the Northwesterly corner of that certain called 35.354 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536;

Thence, N 86°22'02" E, along the Northerly line of said 316.719 acre tract and the Northerly line of said 35.354 acre tract, a distance of 500.00 feet to a 1/2 inch iron rod with cap found for the Northeasterly corner of said 35.354 acre tract and the POINT OF BEGINNING of the herein described tract of land;

Thence, N 86°22'02" E, continuing along the Northerly line of said 316.719 acre tract and along the Southerly line of that certain called 41.000 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, at 1,059.02 feet pass a 1/2 inch iron rod with cap found for the Southeasterly corner of said 41.000 acre tract, in all a total distance of 1,500.00 feet to a 5/8 inch iron rod with cap set for corner, from which a 1/2 inch iron rod found for the Northeasterly corner of said 316.719 acre tract bears N 86°22'02" E, 1,691.27 feet;

Thence, S 03°46'18" E, a distance of 2,075.28 feet to a 5/8 inch iron rod with cap set for corner;

Thence, S 86°50'50" W, a distance of 1,500.09 feet to a 1/2 inch iron rod with cap found in the Easterly line of that certain called White Oak Crossing Sec 2, a subdivision as shown on map or plat and recorded under Cabinet Z, Sheet 1768 of the Map Records of Montgomery County, Texas;

Thence, N 03°46'18" W, along the Easterly Line of said White Oak Crossing Sec 2, a distance of 2,062.72 feet to the POINT OF BEGINNING and containing 71.247 acres of land.

BEARING ORIENTATION BASED ON THE TEXAS STATE PLANE COORDINATE GRID SYSTEM OF 1983 (CENTRAL ZONE NO. 4203), DERIVED FROM CORS SITE LKHU.

TRACT BEING SHOWN ON MAP (DRAWING NUMBER HSC 01909-E).

HOVIS SURVEYING COMPANY, INC.

BY: _____

Date: August 19, 2011
Job No.: 10-026-80
Dwg. No.: HSC 01909-E
File No.: A10-026-80D

STATE OF TEXAS
REGISTERED
HARRY H. HOVIS IV
4827
LICENSED
LAND SURVEYOR

EXHIBIT
A

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS	§
	§
COUNTY OF MONTGOMERY	§

I, the undersigned officer of the Board of Directors of New Caney Municipal Utility District, Montgomery County, Texas, do hereby certify as follows:

Section 1. The Board of Directors of New Caney Municipal Utility District convened in regular session on the 21st day of July, 2011, at the regular meeting place within the boundaries of the District, and roll was called of the duly constituted officers and members of the Board, to-wit:

Steve Bush	President
Jerry Vernon	Vice-President
Dorothy Rawlinson	Secretary
William B. Smith	Treasurer
Tony A. Martinez, Jr.	Director

and all of said persons were present, except Director(s) _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the meeting: a written

RESOLUTION AUTHORIZING ANNEXATION AGREEMENT

was duly introduced for the consideration of said Board and read in full. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried unanimously.

Section 2. That a true, full and correct copy of the aforesaid Resolution adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said Resolution has been duly recorded in the Board's minutes of said meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board as indicated therein; that each of the officers and members of said Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, and that said Resolution would be introduced and considered for adoption at said meeting, and each of the officers and members consented, in advance, to the holding of said meeting for such purpose; that said meeting was open to the public as required by law; and that public notice of the time, place and subject of said meeting given as required by Chapter 551, Texas Government Code, and Section 49.063, Texas Water Code.

SIGNED AND SEALED on the 21st day of July, 2011.

Name: Dorothy Rawlinson
Title: Secretary, Board of Directors

NEW CANEY MUNICIPAL UTILITY DISTRICT OF MONTGOMERY COUNTY

RESOLUTION AUTHORIZING ANNEXATION AGREEMENT

STATE OF TEXAS §
§
COUNT OF MONTGOMERY §

WHEREAS, New Caney Municipal Utility District has been legally created and operates pursuant to the general laws of the State of Texas applicable to conservation and reclamation districts; and

WHEREAS, an Annexation Agreement was presented to the Board of Directors herewith between New Caney Municipal Utility District and White Oak Developers, Inc. regarding the annexation of property legally described in said Annexation Agreement attached hereto; and

WHEREAS, the Board of Directors of the New Caney Municipal Utility District believe it to be in the best interest of the New Caney Municipal Utility District to enter into an Annexation Agreement with White Oak Developers, Inc.

NOW, THEREFORE BE IT RESOLVED by the Board of Directors of NEW CANEY MUNICIPAL UTILITY DISTRICT that:

Section 1:
The President of the Board of Directors of New Caney Municipal Utility District is authorized to execute said Annexation Agreement with White Oak Developers, Inc. on behalf of the District.

Section 2:
The provisions of this Resolution shall be effective as of the date of adoption and shall remain in effect until modified by action of the Board of Directors.

PRESENTED AND ADOPTED this 21st day of July, 2011.

NEW CANEY MUNICIPAL UTILITY DISTRICT

Steve Bush, President

ATTEST:

Dorothy Rawlinson, Secretary

(DISTRICT SEAL)
NEW CANEY MUNICIPAL UTILITY DISTRICT OF MONTGOMERY COUNTY

AFFIDAVIT OF FACTS

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE me, the undersigned authority, on this day personally appeared William E. Dark, who being by me first duly sworn, did on his oath depose and say as follows:

"My name is William E. Dark and I am the President of White Oak Developers, Inc. a Texas corporation ("Landowner") that is the owner of that certain real estate consisting of approximately 71.247 acres of land in Exhibit "A" attached hereto and made a part hereof for all purposes. Landowner is also the Petitioner in that certain petition which requests the inclusion of the aforesaid real estate in New Caney Municipal Utility District, a municipal utility district organization under and governed by the terms of Chapter 49 and 54 of the Texas Water Code."

"Landowner holds the title to the aforesaid real estate in fee simple absolute. Landowner represents there is only one (1) lienholder on the land and there is no other. Landowner understand that the aforesaid municipal utility district will rely on this Certificate in making representations as to the status if title to the aforesaid real estate. Landowner hereby agrees to indemnify and hold harmless the aforesaid municipal utility district, its agents, successors and assigns from and against all losses, damages, injuries, claims, demands and expenses, including legal expense, of whatsoever nature caused or contributed to by any errors or misrepresentations contained in this Certificate."

"There are no water or sewer lines on the property, no one resides on the property, and there is no water or sewer service being provided to the property."

William E. Dark, President

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

This instrument was subscribed, acknowledged and sworn before me on this 29 day of August, 2011, by William E. Dark, President of White Oak Developers, Inc.

(NOTARY SEAL)

APRIL H. TRADER
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
7-20-2015

Notary Public in and for the State of Texas

DESCRIPTION

71.247 acres of land situated in the Wiatt Anderson Survey, Abstract Number 49, Montgomery County, Texas, being a portion of that certain called 316.719 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, said 71.247 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod with cap found for the Northwesterly corner of said 316.719 acre tract and the Northwesterly corner of that certain called 35.354 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536;

Thence, N 86°22'02" E, along the Northerly line of said 316.719 acre tract and the Northerly line of said 35.354 acre tract, a distance of 500.00 feet to a 1/2 inch iron rod with cap found for the Northeasterly corner of said 35.354 acre tract and the POINT OF BEGINNING of the herein described tract of land;

Thence, N 86°22'02" E, continuing along the Northerly line of said 316.719 acre tract and along the Southerly line of that certain called 41.000 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, at 1,059.02 feet pass a 1/2 inch iron rod with cap found for the Southeasterly corner of said 41.000 acre tract, in all a total distance of 1,500.00 feet to a 5/8 inch iron rod with cap set for corner, from which a 1/2 inch iron rod found for the Northeasterly corner of said 316.719 acre tract bears N 86°22'02" E, 1,691.27 feet;

Thence, S 03°46'18" E, a distance of 2,074.28 feet to a 5/8 inch iron rod with cap set for corner;

Thence, S 86°30'50" W, a distance of 1,500.05 feet to a 1/2 inch iron rod with cap found in the Easterly line of that certain called White Oak Crossing Sec 2, a subdivision as shown on map or plat and recorded under Cabinet Z, Sheet 1768 of the Map Records of Montgomery County, Texas;

Thence, N 03°46'18" W, along the Easterly Line of said White Oak Crossing Sec 2, a distance of 2,062.72 feet to the POINT OF BEGINNING and containing 71.247 acres of land.

BEARING ORIENTATION BASED ON THE TEXAS STATE PLANE COORDINATE GRID SYSTEM OF 1983 (CENTRAL ZONE NO. 4203), DERIVED FROM CORS SITE LKHI.

TRACT BEING SHOWN ON MAP (DRAWING NUMBER HSC01909-E).

HOVIS SURVEYING COMPANY, INC.

BY: _____

Date: August 19, 2011
Job No.: 10-026-80
Dwg. No.: HSC 01909-F
File No.: A10-026.80D

STATE OF TEXAS
REGISTERED
HARVEY HOVIS IV
No. 4827
PROFESSIONAL
LAND SURVEYOR

EXHIBIT
A

PETITION FOR ADDITION OF CERTAIN LAND TO NEW CANEY MUNICIPAL UTILITY DISTRICT

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF HOUSTON:

The undersigned, hereinafter called Petitioner (whether one or more), as owners of title to the land hereinafter described and action pursuant to the provisions of Chapters 49 and 54, Texas Water Code, particularly Section 49.301 of the Code, together with all amendments and additions thereto, respectfully petitions and requests the Board of Directors of New Caney Municipal Utility District (hereinafter the "District"), to add to and include within the boundaries of the District the property described by metes and bounds in Exhibit "A" attached hereto and incorporated herein for all purposes (hereinafter the "Property"). In support of this Petition, Petitioner represents, covenants, and agrees as follows:

I.

The Petitioner holds fee simple title to and full ownership of all the Land, as shown on the tax rolls of Montgomery County, Texas. The Petitioner represents there is only one (1) lienholder on the land and there is no other.

II.

The Property to be annexed to and included within the District is an area of approximately 71.247 acres, situated wholly within Montgomery County, Texas, and is accurately described by metes and bounds in Exhibit "A" hereto. No part of the Property is within the extraterritorial jurisdiction (as such term is defined in the Texas Local Government Code, Section 41.001 et. seq., as amended) of any city, town or village, except the City of Houston, Texas.

III.

Petitioner represents and warrants that there are no liens against the Property.

IV.

Petitioner alleges that the addition of said Property to the District is feasible and practicable and would be to the advantage of the District, and would be of benefit and to the advantage of the land and all taxable property located thereon. Petitioner further alleges that the District's present and future water and sanitary sewer system and other improvements of the District are sufficient or will be sufficient to supply the land proposed hereby to be added to the District without injuring lands already within the District.

V.

Petitioner, on behalf of itself and its successors and assigns, agrees (i) to comply with the terms, conditions, and provisions of the District's rules, regulations and policies for the provision of District services, as amended form time to time, (ii) to prohibit the use of District services by, through or across the Property to any land or premises outside the Property without the prior written consent of the District, and (iii) to make available to the District, at no cost to the District, such easements and rights-of-way of standard location any size as may be necessary, if any, to permit the District to provide water, sanitary sewer and drainage works, facilities and services to or adjacent to the Property.

VI.

Petitioner hereby certifies that there are no qualified voters residing within the boundaries of the Property that have not joined and consented to this Petition.

VII.

This petition shall constitute an election on the part of Petitioner, its successors and assigns, for the Property and any improvements which are now or may hereafter be constructed thereon to become liable for all present and future debts and taxes of the District in the same manner and to the same extent as other lands and improvements in the District are liable for the District's debts and taxes. This Petition shall be considered further an election and authorization by Petitioner, it successors and assigns, for the Board of Directors of the District to issue and sell the remainder of bonds authorized at elections held prior to the addition of the Property but unissued at the time of the addition of the Property, for the purposes and upon the terms and conditions such bonds were voted, in one or more installments or series, at a future date or dates, when, in the Board's judgment, such amounts are required for authorized purposes.

VIII.

Petitioner elects, accepts, assumes and acknowledges the right, power, duty, and necessity of the District to assess, levy and collect taxes on and against the Property and all taxable property thereon for the payment of any outstanding indebtedness payable in whole or in part from taxation which may be owned, contracted or authorized by the District, or any taxes levied for or in anticipation of the payment of any such outstanding indebtedness which may be owed, contracted or authorized by the District.

IX.

Petitioner is aware that an election may be held within the District to authorize the Board of Directors to levy and collect a maintenance tax levied against all taxable property within the District to secure funds for authorized purposes. Petitioner elects, accepts, assumes and acknowledges for the right, power, duty and necessity of the District to assess, levy, and collect a maintenance tax on and against the Property and all taxable improvements thereon shall bare a pro rata share of any and all maintenance taxes and all other obligations heretofore authorized

and to be authorized by the District, and such Property shall be taxed equally with all other properties within the District.

X.

For and in consideration of addition of the Property to the District, Petitioner agrees that all agreements, stipulations and covenants stated herein shall become fixed with the Property, shall run with the Property and shall be binding on Petitioner and Petitioner's successors and assigns.

WHEREFORE, Petitioner prays as follows: That this Petition be granted in all respects; that, subject to the required consent of the City of Houston, Texas, the Property described in Exhibit "A" hereto be added to and become a part of the District as provided by law and particularly by the provisions of the Texas Water Code, as amended; that after this Petition is granted that it and the Board's action hereon be filed of record and recorded in the office of the County Clerk of Montgomery County, Texas; and that petitioner have any other relief to which Petitioner may be entitled.

IN WITNESS WHEREOF, Petitioner has executed this Petition on this the 21st day of July, 2011.

WHITE OAK DEVELOPERS, INC.

William E. Dark

William E. Dark, President

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

This instrument was subscribed, acknowledged and sworn before me on this 21st day of July, 2011, by William E. Dark, President of White Oak Developers, Inc., a Texas corporation.

Kim R. Holle

Notary Public in and for the State of Texas

(NOTARY SEAL)

KIM R. HOLLE
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES
04-27-2013

DESCRIPTION

71.247 acres of land situated in the Wiatt Anderson Survey, Abstract Number 49, Montgomery County, Texas, being a portion of that certain called 316.719 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, said 71.247 acres of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod with cap found for the Northwesterly corner of said 316.719 acre tract and the Northwesterly corner of that certain called 35.354 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536;

Thence, N 86°22'02" E, along the Northerly line of said 316.719 acre tract and the Northerly line of said 35.354 acre tract, a distance of 500.00 feet to a 1/2 inch iron rod with cap found for the Northeasterly corner of said 35.354 acre tract and the POINT OF BEGINNING of the herein described tract of land;

Thence, N 86°22'02" E, continuing along the Northerly line of said 316.719 acre tract and along the Southerly line of that certain called 41.000 acres of land described in deed and recorded in the Official Public Records of Real Property of Montgomery County, Texas, under County Clerk's File Number 2007-108536, at 1,059.02 feet pass a 1/2 inch iron rod with cap found for the Southeasterly corner of said 41.000 acre tract, in all a total distance of 1,500.00 feet to a 5/8 inch iron rod with cap set for corner, from which a 1/2 inch iron rod found for the Northeasterly corner of said 316.719 acre tract bears N 86°22'02" E, 1,691.27 feet;

Thence, S 03°46'18" E, a distance of 2,075.28 feet to a 5/8 inch iron rod with cap set for corner;

Thence, S 86°50'50" W, a distance of 1,500.09 feet to a 1/2 inch iron rod with cap found in the Easterly line of that certain called White Oak Crossing Sec 2, a subdivision as shown on map or plat and recorded under Cabinet Z, Sheet 1768 of the Map Records of Montgomery County, Texas;

Thence, N 03°46'18" W, along the Easterly Line of said White Oak Crossing Sec 2, a distance of 2,062.72 feet to the POINT OF BEGINNING and containing 71.247 acres of land.

BEARING ORIENTATION BASED ON THE TEXAS STATE PLANE COORDINATE GRID SYSTEM OF 1983 (CENTRAL ZONE NO. 4203), DERIVED FROM CORS SITE LKHU.

TRACT BEING SHOWN ON MAP (DRAWING NUMBER HSC 01909-E).

HOVIS SURVEYING COMPANY, INC.

BY: _____

Date: August 19, 2011
Job No.: 10-026-80
Dwg. No.: HSC 01909-E
File No.: A10-026.80D

STATE OF TEXAS
REGISTERED
HARRY H. HOVIS IV
4827
PROFESSIONAL
SURVEYOR

EXHIBIT
A

October 7, 2011
Job No. E208-0170-901

DESCRIPTION OF
9,164.12 ACRES
REVISED NEW CANEY MUNICIPAL UTILITY DISTRICT BOUNDARY
MONTGOMERY COUNTY, TEXAS

IRA MILLIMAN SURVEY, ABSTRACT NUMBER 340
WILLIAM LYNCH SURVEY, ABSTRACT NUMBER 308
JAMES H. STEWART, ABSTRACT NUMBER 668
T.P. CARTWRIGHT SURVEY, ABSTRACT NUMBER 652
J.M. COOPER SURVEY, ABSTRACT NUMBER 736
JACOB EBERLY SURVEY, ABSTRACT NUMBER 193
MARSHALL H. SHORT SURVEY, ABSTRACT NUMBER 509
FINLEY McNAUGHTON SURVEY, ABSTRACT NUMBER 392
S.P. TERRY SURVEY, ABSTRACT NUMBER 564
JOSEPH M. EVERETT SURVEY, ABSTRACT NUMBER 197
WILLIAM SMITH SURVEY, ABSTRACT NUMBER 540
WILLIAM MASSEY SURVEY, ABSTRACT NUMBER 387
T.L. ROBERTS SURVEY, ABSTRACT NUMBER 742
WIATT ANDERSON SURVEY, ABSTRACT NUMBER 49

Metes and bounds description of that certain lot, tract, or parcel of land being 9,164.12 acres in the Ira Milliman Survey A-340, the William Lynch Survey A-308, the James H. Stewart Survey A-668, the T. P. Cartwright Survey A-652, the J. M. Cooper Survey A-736, the Jacob Eberly Survey A-193, the Marshall H. Short Survey A-509, the Finley McNaughton Survey A-392, the S. P. Terry Survey A-564, the Joseph M. Everett Survey A-197, the William Smith Survey A-540, the William Massey Survey A-387, the Wiatt Anderson Survey A-49, and the T. L. Roberts Survey A-742, in Montgomery County, Texas, and said 9,164.12 acres being more particularly described by metes and bounds as follows, to wit:

BEGINNING at a point for corner, same being the northwest corner of the T. L. Roberts Survey A-742 and also being the northwest corner of the T. L. Roberts Estate tract of land, and said point being the interior southeast corner of the Augustus V. Sharp Survey A-481;

THENCE EAST, with the northernmost north line of the T. L. Roberts Survey A-742 and with the northernmost south line of the Augustus V. Sharp Survey A-481 a distance of 2,800.00 feet to a point for corner, same being the northernmost northeast corner of the T. L. Roberts Survey A-742 and also being the northernmost southeast corner of the Augustus V. Sharp Survey A-481, and said point being in the west line of the James H. Stewart Survey A-668;

THENCE NORTH, with the west line of the James H. Stewart Survey A-668 and with the easternmost east line of the August V. Sharp Survey A-481, a distance of 3,800.00 feet to a point for corner, same being the northwest corner of the James H. Stewart Survey A-668, and said point being in the south line of the William Lynch Survey A-308, and said point also being in the south line of a tract owned or formerly owned by Champion Paper and Fibre Company;

THENCE EAST, with the north line of the James H. Stewart Survey A-668 and with the south line of the William Lynch Survey A-308 and with the south line of a Champion Paper and Fibre Company tract, a distance of 2,600.00 feet to a point for corner in said lines, same being the southeast corner of the said

Champion Paper and Fibre Company tract, and said point also being the southwest corner of a tract owned or formerly owned by A. Espinosa;

THENCE NORTH, across the William Lynch Survey A-308, with the east line of the said Champion Paper and Fibre Company tract, and with the west line of the said A. Espinosa tract, a distance of 3,100 feet to a point for corner in the north line of the William Lynch Survey A-308, and also being in the south line of the Ira Milliman Survey A-340, same being the northeast corner of the said Champion Paper and Fibre Company tract;

THENCE WEST, with the north line of the William Lynch Survey A-308 and with the south line of the Ira Milliman Survey A-340, and with the north line of the said Champion Paper and Fibre Company tract, a distance of 2,300.00 feet to a point for corner in said lines, same being the southwest corner of a tract owned or formerly owned by George Bristow, and said point also being the southernmost southeast corner of a tract owned or formerly owned by Champion Paper and Fibre Company;

THENCE NORTH, with the westernmost west line of the said George Bristow tract and with the westernmost east line the said Champion Paper and Fibre Company tract a distance of 1,050.00 feet to a point for corner;

THENCE EAST, with the southernmost north line of the said George Bristow tract and with the northernmost south line of the said Champion Paper and Fibre Company tract a distance of 850.00 feet to a point for corner;

THENCE NORTH, with the easternmost west line of the said George Bristow tract and with the easternmost east line of the said Champion Paper and Fibre Company tract a distance of 1,450.00 feet to a point for corner, same being the northeast corner of the said Champion Paper and Fibre Company tract, and said point being in the north line of the Ira Milliman Survey A-340, and also being in the south line of the Charles Stephens Survey A-482, and said point being in the south line of a tract owned or formerly owned by Mrs. Helen Ryrie Bickle, et al;

THENCE EAST, with the north line of the Ira Milliman Survey A-340, and with the south line of the Charles Stephens Survey A-482, and with the south line of the Mrs. Helen Ryrie Bickle, et al tract, a distance of 4,550.00 feet to a point for corner in Caney Creek, same being the northeast corner of the Ira Milliman Survey A-340, and also being the southeast corner of the Charles Stephens Survey A-482, and said point being in the west or southwest line of the A. P. Frederick Survey A-211, and said point being the southeast corner of a tract of land owned or formerly owned by Thomas O. Presswood;

THENCE in a southeasterly direction with the east or northeast line of the Ira Milliman Survey A-340, and the William Lynch Survey A-308, and with the west or southwest line of the A. P. Frederick Survey A-211, and with Caney Creek as follows:

South 22°00' East, a distance of 400.00 feet;

South 64°00' East, a distance of 1,300.00 feet;

South 44°00' East, a distance of 200.00 feet;

South 29°30' West, a distance of 500.00 feet;

South 27°30' East, a distance of 1,100.00 feet;

North 78°00' East, a distance of 1,500.00 feet;

North 88°45' East, a distance of 750.00 feet;

North 43°45' East, a distance of 700.00 feet;

South 39°00' East, a distance of 800.00 feet;

SOUTH, a distance of 600.00 feet;

South 71°00' East, a distance of 550.00 feet;

North 47°00' East, a distance of 600.00 feet;

South 45°15' East, a distance of 1,800.00 feet;

South 6°30' East, a distance of 400.00 feet, to a point in said Caney Creek for corner, same being in the east or northeast line of the William Lynch Survey A-308, and said corner also being the southwest corner of the A. P. Frederick Survey A-211, and also the northwest corner of the Marshall H. Short Survey A-509;

THENCE EAST, with the north line of the Marshall H. Short Survey A-509, and with the south line of the A. P. Frederick Survey A-211, and with the south line of a tract owned or formerly owned by William H. Rice Institute, a distance of 9,845.59 feet to a point for corner in said lines;

THENCE SOUTH, with the east line of a tract owned by F. B. Washington and with the west line of Redbud Forest (unrecorded subdivision) and across a tract owned by J. S. Sullivan, a distance of 4,802.19 feet to a point for corner in F.M. Road 1485;

THENCE in an easterly direction with Farm to Market Road 1485 as follows:

EAST, a distance of 1,125.00 feet;

South 85°00' East, a distance of 675.00 feet;

North 84°00' East, a distance of 525.00 feet to a point for corner in F.M. Road 1485 and Peach Creek and in the east line of the Marshall H. Short Survey A-509, and the west line of the Semore Garsee Survey A-229;

THENCE in a southerly direction with Peach Creek and Caney Creek, and with the east line of the Marshall H. Short Survey A-509, and the east line of the S. P. Terry Survey A-564, and the west line of the Semore Garsee Survey A-229, and with the west line of the Samuel J. Rickhow Survey A-439, as follows:

South 13°00' West, a distance of 200.00 feet;

South 9°30' East, a distance of 3,350.00 feet;

South 8°30' West, a distance of 850.00 feet;

South 36°30' West, a distance of 300.00 feet;

South 20°00' East, a distance of 300.00 feet;

South 26°30' West, a distance of 500.00 feet;

South 84°30' West, a distance of 500.00 feet;

South 4°30' East, a distance of 850.00 feet;

South 37°00' East, a distance of 800.00 feet;

South 22°30' West, a distance of 850.00 feet;

South 60°00' West, a distance of 600.00 feet;

South 8°15' East, a distance of 1,100.00 feet;

South 31°45' West, a distance of 500.00 feet;

South 45°00' East, a distance of 1,000.00 feet;

South 11°00' West, a distance of 450.00 feet to a point for corner in Caney Creek, same being the southeast corner of the S. P. Terry Survey A-564, and also being the northeast corner of the M. H. Short Survey A-535, and said point being in the west line of the Samuel J. Rickhow Survey A-439;

THENCE WEST, with the south line of the S. P. Terry Survey A-564, and the south line of the William Smith Survey A-540, and with the north line of the M. H. Short Survey A-535 and the north line of the Wiatt Anderson Survey A-49, a distance of 10,100.00 feet to a point for corner;

THENCE SOUTH, a distance of 2,075.28 feet to a point for corner;

THENCE North 89°22'52" West, a distance of 1,500.09 feet to a point for corner;

THENCE SOUTH, a distance of 487.28 feet to a point for corner;

THENCE North 89°51'40" West, a distance of 500.00 feet to a point for corner;

THENCE SOUTH, with the west line of the Wiatt Anderson Survey A-49, and with the westernmost east line of the Joseph M. Everett Survey A-197, and through a tract of land owned or formerly owned by Charles W. Wimberly, a distance of 2,131.21 feet to a point for corner in White Oak Creek;

THENCE in a northwesterly direction with White Oak Creek, through the Joseph M. Everett Survey A-197, and the William Smith Survey A-540, and the William Massey Survey A-387 and the Ben T. Laws Survey A-740, and the T. L. Roberts Survey A-742 as follows:

North 77°15' West, a distance of 900.00 feet;

North 48°30' West, a distance of 2,050.00 feet;

North 10°00' West, a distance of 1,400.00 feet;

North 36°00' West, a distance of 1,050.00 feet;

North 57°05' West, a distance of 1,000.00 feet;

North 56°00' West, a distance of 1,300.00 feet;

North 51°35' West, a distance of 700.00 feet;

North 38°42' West, a distance of 1,210.00 feet;

North 26°15' West, a distance of 800.00 feet;

North 72°00' West, a distance of 1,850.00 feet;

North 39°00' West, a distance of 3,550.00 feet;

North 26°45' West, a distance of 290.00 feet;

North 68°24' West, a distance of 840.00 feet;

North 83°14' West, a distance of 1,292.00 feet;

North 62°17' West, a distance of 788.00 feet;

North 38°09' West, a distance of 607.00 feet;

North 74°12' West, a distance of 589.00 feet;

North 11°06' West, a distance of 962.00 feet;

North 41°50' West, a distance of 1,071.00 feet, to a point for corner in White Oak Creek, and said point being in the west line of the T. L. Roberts Survey A-742, and also being in the westernmost east line of the Augustus V. Sharp Survey A-481, and in the west line of the T. L. Roberts Estate Tract;

THENCE NORTH, with the west line of the T. L. Roberts Survey A-742 and with the west line of the T. L. Roberts Estate tract, and with the westernmost east line of the Augustus V. Sharp Survey A-481 a distance of 1,050.00 feet to the **POINT OF BEGINNING** and containing 9,164.12 acres of land.

This metes and bounds description is based on New Caney Municipal Utility District of Montgomery County, Texas, "Amendment No. 3 to Information Form" dated March 23, 1984 as described in instrument recorded under Montgomery County Clerk's File Number 8427517 Official Public Records of Montgomery County, Texas (M.C.O.P.R.R.P.), an "Order Adding Land" (29.270 acres) of record in Doc# 2010063776, M.C.O.P.R.R.P. and the description and survey of 71.247 acres prepared by Hovis Surveying Company dated August 19, 2011. This property has not been surveyed or staked. This description is an attachment to a Revised District Boundary Map prepared by LJA Engineering, Inc., dated October 2011, LJA Project Number E208-0170-901.

"This document was prepared under 22 TAC § 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared"

LJA Engineering & Surveying, Inc.

10-7-2011

AFFIDAVIT OF CAPACITY

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, appeared William E. Dark, who after being by me duly sworn, stated the following under oath:

"My name is William E. Dark. I am competent to make this Affidavit. The statements of fact set forth herein are true and correct, and are within my personal knowledge.

I am the President of White Oak Developers, Inc., a Texas corporation.

I have full capacity to act on behalf of White Oak Developers, Inc."

William E. Dark

SWORN TO AND SUBSCRIBED BEFORE ME on this the 21st day of July 2011 by the said William E. Dark.

Notary Public, State of Texas

(Notary Seal)

KYM R. HOLLE
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES:
04-27-2013

CERTIFICATE OF CORPORATE AUTHORITY

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

I, the undersigned officer of White Oak Developers, Inc., hereby certify that William E. Dark was on July 21, 2011, President of the White Oak Developers, Inc., a Texas corporation and that in such capacity he executed a Affidavit of Capacity and on April 3, 2012 he executed a Petition for Consent to Include Additional Land in New Caney Municipal Utility District, copies of which are attached hereto, and the execution of said documents by William E. Dark in the capacity herein stated has been authorized, approved, ratified, and confirmed by official action of the Officers of the White Oak Developers, Inc., duly adopted in conformity with its Articles of Organization and Regulations.

WITNESS MY HAND this 3 day of April 2012.

Name: Jerry A. Hayley
Title: Vice President, White Oak Developers, Inc

ATTEST:

Name: Ronald M. Dark
Title: Vice-President

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared Jerry A. Hayley as Vice President of White Oak Developers, Inc., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for purposes and consideration therein expressed, in the capacity stated, and as the act and deed of White Oak Developers, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 3 day of April, 2012

(Notary Seal) APRIL H. TRADER NOTARY PUBLIC STATE OF TEXAS EXPIRES 7-20-2016

Notary Public, State of Texas

CERTIFICATE OF CORPORATE AUTHORITY

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

I, the undersigned officer of Woodforest National Bank, hereby certify that George V. Sowers, Jr. was on September 26, 2011, President of the Montgomery County, Texas Woodforest National Bank and that in such capacity he executed a Certificate of Lienholder's Consent and on May 9, 2012 he executed a Petition for Consent to Include Additional Land in New Caney Municipal Utility District, copies of which are attached hereto, and the execution of said documents by George V. Sowers, Jr. in the capacity herein stated has been authorized, approved, ratified, and confirmed by official action of the Officers of the Woodforest National Bank, duly adopted in conformity with its Articles of Organization and Regulations.

WITNESS MY HAND this 9th day of May 2012.

Name: George V. Sowers, Jr.
Title: President

ATTEST:

Name: Jerre Rosenbaum
Title: President

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared George V. Sowers, Jr. as President of Woodforest National Bank, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for purposes and consideration therein expressed, in the capacity stated, and as the act and deed of Woodforest National Bank.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 9th day of May, 20 12.

(Notary Seal) MARTHA J DAVIS NOTARY PUBLIC State of Texas Comm. Exp. 07/25/2013

Notary Public, State of Texas

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

New Caney Municipal Utility District

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 11969

to provide continuous and adequate water utility service to that service area in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35381-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of New Caney Municipal Utility District to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this APR 13 2009

Buddy Garcia
For the Commission

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

New Caney Municipal Utility District

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 20575

to provide continuous and adequate sewer utility service to that service area in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35382-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of New Caney Municipal Utility District to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this APR 13 2009

Buddy Garcia
For the Commission

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

White Oak Developers, Inc.

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 12894

to provide continuous and adequate water utility service to that service area in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35381-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of White Oak Developers, Inc., to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this APR 13 2009

Buddy Garcia
For the Commission

Texas Commission On Environmental Quality

By These Presents Be It Known To All That

White Oak Developers, Inc.

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 20859

to provide continuous and adequate sewer utility service to that service area in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 35382-C are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of White Oak Developers, Inc., to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

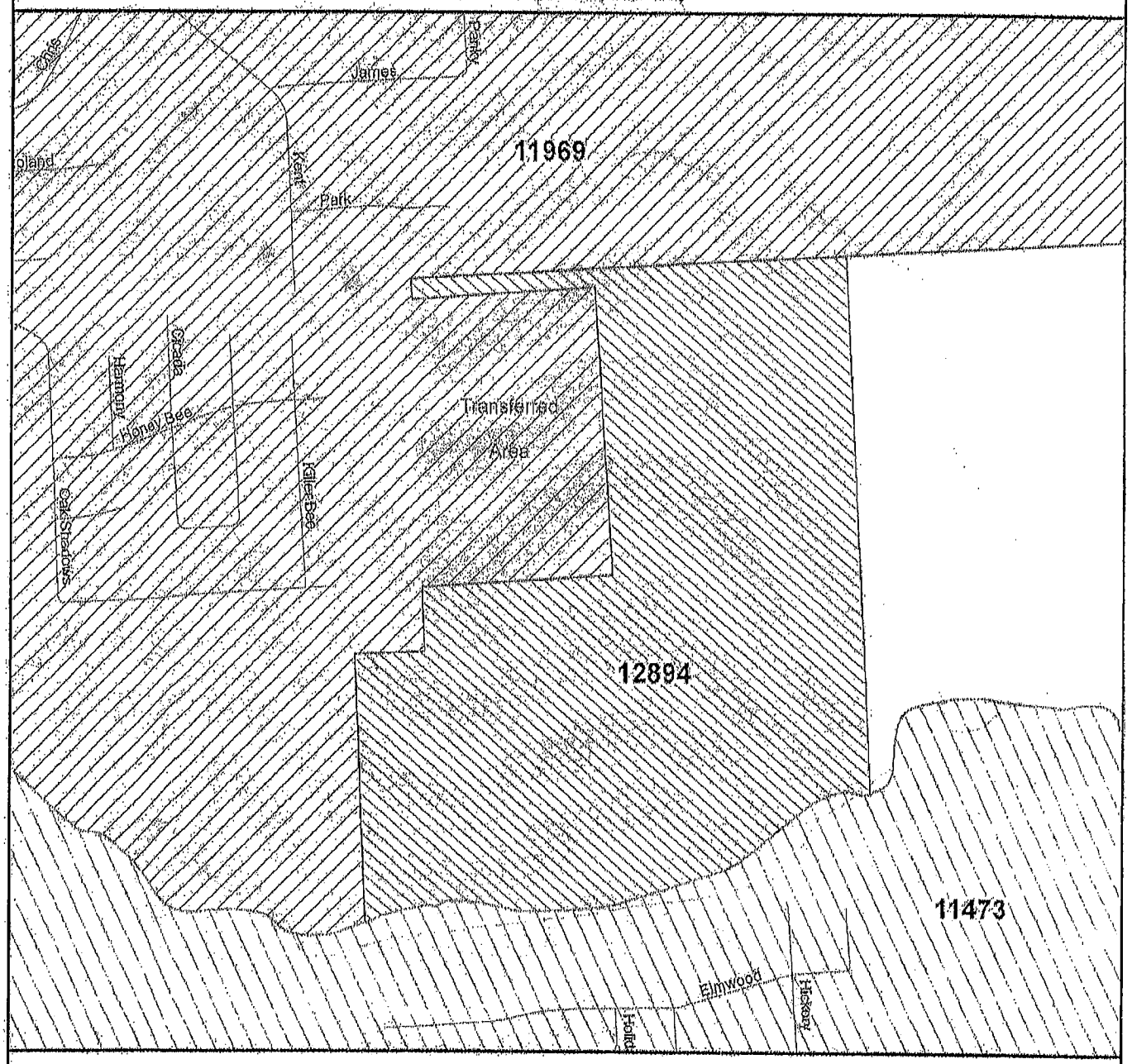
Issued at Austin, Texas, this APR 13 2009

Buddy Garcia

For the Commission

New Caney Municipal Utility District (MUD) / White Oak Developers, Inc.
Portion of Water Service Areas
Application No. 37521-C
13.248 Contract Service Agreement from New Caney MUD
to Transfer a Portion of CCN No. 12894 from White Oak Developers, Inc.
to New Caney MUD, CCN No. 11969
in Montgomery County

JDB
7/31/2013



Transferred Area

Water CCN Service Areas

- 11969 - New Caney MUD
- 12894 - White Oak Developers Inc
- 11473 - Porter SUD

N

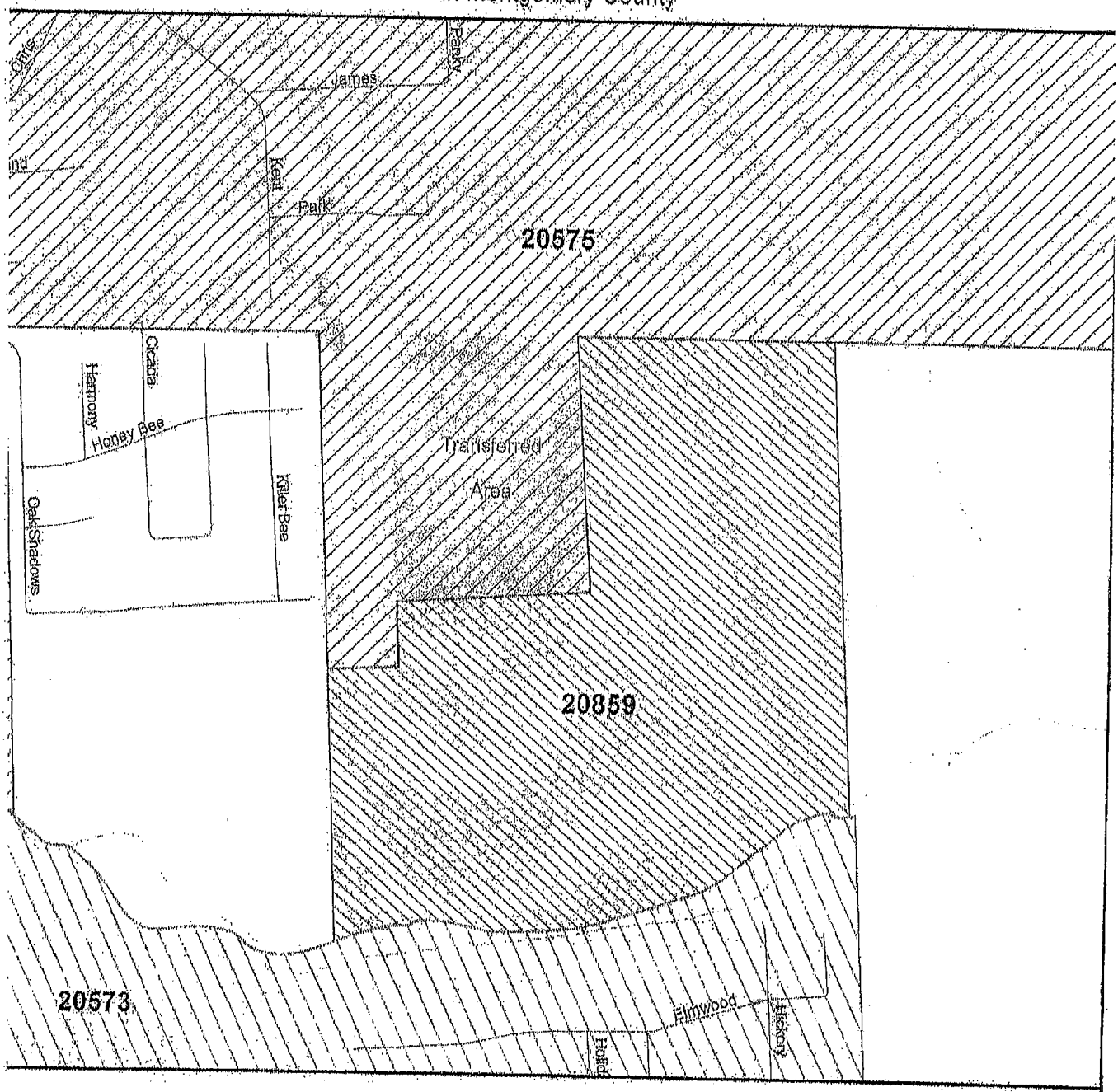
0 250 500 1,000 Feet

TCEQ

Map by: Suzanne Jester
Date Created: June 27, 2013
Project Path: c:/gis/projects/applications/37521-c.mxd

New Caney Municipal Utility District (MUD) / White Oak Developers, Inc.
Portion of Sewer Service Areas
Application No. 37522-C
13.248 Contract Service Agreement from New Caney MUD
to Transfer a Portion of CCN No.20859 from White Oak Developers, Inc.
to New Caney MUD, CCN No. 20575
In Montgomery County

JDH
7/3/2013



Transferred Area

Sewer CCN Service Areas

20575 - New Caney MUD

20859 - White Oak Developers Inc

20573 - Porter MUD

N

0 200 600 1,000 Feet

Map by: Suzanne Jaster
Date Created: June 27, 2013
Project Path: c:/gis/projects/applications/37522-c.mxd

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 18, 2014

Mr. Jon C. Pfennig
Jon C. Pfennig, P.C.
P.O. Box 269
Baytown, Texas 77522-0269

Re: TCEQ Docket No. 2013-1459-UCR; Consideration of a request for a Commission order approving a Contract Service Agreement designating service areas between New Caney Municipal Utility District, Convenience and Necessity ("CCN") Nos. 11969 and 20575, and White Oak Developers, Inc, CCN Nos. 12894 and 20859. Application Nos. 37521-C and 37522-C.

Dear Mr. Pfennig:

This letter is to inform you that the above-referenced application has been set on the Agenda for consideration by the Texas Commission on Environmental Quality ("TCEQ"). This Agenda will occur on August 6, 2014, beginning at 9:30 a.m. in Building E, Room 201S, 12100 Park 35 Circle, Austin, Texas. Included with this letter are the backup materials to be considered by the Commission. **You will need to attend the Agenda to explain the agreement and to answer any questions the Commissioners may have.**

Persons with disabilities who plan to attend this hearing and who need special accommodations at the Agenda should the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD) at least one week prior to the hearing. If you have any questions about this matter, you may contact John Lock from the Water Supply Division at 1-512-239-4710

Sincerely,

Hollis Henley
Staff Attorney
Environmental Law Division

Enclosure

CONSENT FORM

Applicant's Name: New Caney MUD/White Oak Developers, Inc
Application No.: 37521-C, 37522-C (13,248)

☒ I concur with the recommendation/map contained in the staff memorandum transmitted by letter dated

☐ I do not concur with and intend to respond to the recommendation contained in the staff memorandum transmitted by letter dated

I understand that I have 14 days from the date of this letter to provide my response.

I am authorized by White Oak Developers to sign this form.

Signature: _____

Printed Name: Tracy A. Bailey

Relationship to Applicant: President

Date signed: July 3 2013

Mail, fax or e-mail to:
John Lock
Utilities & Districts Section, MC 159
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6972
E-mail: john.lock@tceq.texas.gov

CONSENT FORM

Applicant's Name: New Caney MUD/White Oak Developers, Inc
Application No.: 37521-C, 37522-C (13.248)

☑ I concur with the recommendation/map contained in the staff memorandum transmitted by letter dated

☐ I do not concur with and intend to respond to the recommendation contained in the staff memorandum transmitted by letter dated

I understand that I have 14 days from the date of this letter to provide my response.

I am authorized by **New Caney MUD** to sign this form.

Signature: _____

Printed Name: Ricky McDonald

Relationship to Applicant: General Manager

Date signed: 7-9-13

Mail, fax or e-mail to:
John Lock
Utilities & Districts Section, MC 159
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
Fax: (512) 239-6972
E-mail: john.lock@tceq.texas.gov