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STATE OF ALABAMA)

JEFFERSON COUNTY)

AGREEMENT

THIS AGREEMENT entered into this 1<sup>st</sup> day of June, 1968, by and between David W. Davies (hereinafter sometimes called "Davies") and wife, Marion A. Davies; Jim Davis (hereinafter sometimes called "Davis") and wife, Bobbie H. Davis; Robert Nichols (hereinafter sometimes called "Nichols"), and the Town of Pelham, Alabama, a municipal corporation (hereinafter sometimes called "Town");

W I T N E S S E T H:

WHEREAS, Davies as the owner of lands in the SE $\frac{1}{4}$  of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama, and Davis as the owner of certain land adjoining said land of Davies, are parties to an agreement with said Nichols concerning the development of the water system known as the Indian Hills Water Company, Inc., which agreement is dated January 18, 1964, and

WHEREAS, said Nichols is the sole owner of all of the stock of said Indian Hills Water Company, Inc.; and

WHEREAS, said Town is desirous of acquiring all of said stock in said Indian Hills Water Company, Inc..

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Said Nichols does hereby agree to transfer, assign and deliver to said Town all the stock in said Water Company and does hereby warrant that said Water Company is the owner of the pump, well site, storage tank, chlorinator, and all other equipment now located at the Water Company well site on land described as follows:

The North 50 feet of the East 50 feet of the South 100 feet of Lot 6, Indian Hills First Sector, map of which is recorded in Map Book 4, Page 81, in the Probate Office of Shelby County, Alabama;

and does further warrant that the title to said real and personal property is vested in said corporation, free of any outstanding debts or obligations, except current ad valorem taxes which shall be prorated on the date of sale.

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2. Said Town does hereby covenant and agree to comply with the covenants and terms of said agreement of January 18, 1964, a copy of which agreement is attached hereto as Exhibit "A", and made a part hereof as though more particularly described herein, except as modified herein, and except as modified by operation of law in that Town is a municipal corporation.

3. In order to obtain the approval of said Davies and Davis for the expansion of said water system prior to the development by said Davies and Davis of their respective properties in order that parties other than those holding under Davies and Davis can be served by said water system, said Town and Davies and Davis hereby covenant and agree as follows:

(a). The type of pipe to be furnished by Davies and Davis under said agreement shall be such type as is approved for use by the State of Alabama for such purposes, or such agency of said State or the County as shall succeed to the right to approve the type of pipe for such purposes.

(b). Town shall commence the work of installing pipes for the developments of Davies and Davis within thirty days from the date notification is received by said Town from Davies as to his lands and from Davis as to his lands, except that in no event shall the Town be required to commence work prior to two weeks from the date the pipe and other equipment required to be furnished by Davies and Davis is delivered to the job site. Such installation work upon the part of the Town shall commence in the normal manner without delay except such as might be occasioned by strikes, weather or Acts of God.

(c). The Town will install a water storage tank when directed by the Alabama State Health Department (or such department as shall succeed to its powers and authority) to do so unless earlier construction is decided upon by the Town.

(d). Paragraph #5 of said Exhibit "A" is hereby deleted as a requirement of Davies, Davis, Nichols and of any of the other parties to said agreement of January 18, 1964.

4. Paragraph #3 of the said Exhibit "A" is hereby deleted and the following is hereby inserted in place thereof:

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Davies agrees to convey by warranty deed free of all encumbrances land for a water storage tank and a twenty foot easement from such land to the nearest road dedicated by Davies when requested to do so by the Town. The tank site shall be fifty (50) feet by fifty (50) feet in size except that in the event it is necessary that said tank site be larger said Davies and wife agree to convey across the back of the lot selected by him as the tank site additional property which may be necessary. The tank site shall be located at or near the highest elevation point on the Davies property. The exact location to be agreed upon by Davies in order to best accomodate the development of the Davies lands. In the event the site location and/or the size of site cannot be agreed upon by said Town and Davies, then same shall be selected by arbitration, with Town appointing an arbitrator and Davies appointing an arbitrator and the two so appointed appointing a third arbitrator. The decision of the majority of the arbitrators shall be final and said Davies and spouse shall convey by warranty deed the site so determined. The Town shall deliver to Davies, prior to the request for said easement and tank site, a survey showing the location of the proposed easement and proposed tank site, and further provide the cost of such survey and the cost of the pipe and the fittings from the nearest dedicated street to the tank site along the easement. It is agreed however, that when said Davies starts using the said pipes so installed for the development of his said lands, he, Davies, shall reimburse said Town for the costs of the said pipe and other items as is required to be paid by Davies under said agreement of January 18, 1964.

5. It is covenanted and agreed by and between the parties hereto that the requirements of paragraph #2 (f) of said agreement of January 18, 1964, shall not be of any force and effect, and Town shall have the immediate right to supply water to areas beyond or outside of the 240 acres referred to in said paragraph #2 (f).

6. That Nichols shall furnish said Town a title insurance policy on the well site insuring title to said well site in the amount of \$25,000.00,

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William Isaac L. Dennis  
Clerk



STATE OF ALABAMA)

JEFFERSON COUNTY)

A G R E E M E N T

THIS AGREEMENT entered into on this 18<sup>th</sup> day of January, 1964, by and between David W. Davies (hereinafter sometimes called "Davies") and wife, Marion A. Davies; Jim Davis (hereinafter sometimes called "Davis") and wife, Bobbie H. Davis; Tom E. Bonner (hereinafter sometimes called "Bonner") and wife, Nell C. Bonner; Robert Nichols (hereinafter sometimes called "Nichols"), and Indian Hills Water Company, Inc. (hereinafter sometimes called "Water Company");

W I T N E S S E T H:

WHEREAS, Davies is the owner of the SE $\frac{1}{4}$  of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama, and Bonner and Davis are the owners of certain land adjoining said land of Davies, the two tracts comprising a total of 240 acres is proposed to be developed into residential subdivisions with approximately 200 lots; and

WHEREAS, said Davies, Bonner and Davis are the owners of all of the property, real, personal and mixed, specially including a well, well pump, well site and other equipment in connection therewith, formerly owned by Davies-Bonner & Davis Water Company, now dissolved, which company was formed for the purpose of supplying a public water system and service for the aforesaid 240 acres owned by Davies and by Bonner and Davis; and

WHEREAS, Davies, Bonner and Davis have agreed that it is desirable to transfer the said property formerly belonging to said Davies-Bonner & Davis Water Company to Indian Hills Water Company, Inc. upon the terms and conditions as set out herein, and said Indian Hills Water Company and Nichols are agreeable to accepting a transfer of the ownership of said property and management of a water company for said supplying of a public water system and service for the aforesaid 240 acres upon the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. In accordance with a bill of sale executed contemporaneously herewith, all of the property, real, personal and mixed, specially including a well, well

pump, well site and other equipment in connection therewith, formerly owned by Davies-Bonner & Davis Water Company, is herewith transferred and assigned to Indian Hills Water Company.

2. The Water Company and Nichols agree to have the Water Company carry out the following promises:

(A) To supply adequate and satisfactory water service suitable for human consumption to all residences constructed on the 240 acres belonging to Davies and to Bonner and Davis or their heirs and assigns.

(B) To comply with all of the applicable rules and regulations of the Alabama Public Service Commission, the State of Alabama and Shelby County Health Departments and such other rules and regulations of any appropriate governmental authority in order to function as an approved water company supplying water within the 240 acres, specifically including the setting of rates for the sale of water.

(C) To install a water storage tank of adequate size to serve any and all residences within the said 240 acres. Said water storage tank will be installed when necessary; however, in no event later than the time at which service is being supplied to 60 houses constructed on said 240 acres.

(D) To install water pipe mains and laterals and fittings along streets, alleys and easements in subdivisions located within the said 240 acres within thirty (30) days after request for such installation given by Davies or Bonner or Davis. Said installation shall be commenced within said 30 days and shall be completed promptly thereafter, weather permitting. The cost of the pipe and fittings shall be borne by the owner of the property within which the service is to be given and the cost of the installation shall be borne by the Water Company. The pipe size or sizes to be furnished at the expense of Davies or Bonner and Davis shall be six inch pipe except on cul de sacs or lateral streets in which the pipe size shall be two inch or four inch pipe as shall be necessary. The cost of pipe and fittings in excess of the two inch or six inch minimum shall be borne by the Water Company. In event of dispute as to the size of pipe, the dispute will be referred for arbitration to Hendon & Associates, whose decision shall be binding on the parties thereto. The Water Company will furnish and install copper service lines and make taps from mains to the property lines of the properties being served at the expense of the Water Company. Meter boxes and meters for



measuring service shall be installed by the Water Company at its expense. The actual cost of the meter and meter box shall be borne by the owner of the lot being supplied service. All work will be done in a good and workmanlike manner.

(E) The Water Company will maintain at its expense the entire system for the supplying of water to the said 240 acres, specifically including the maintenance of adequate source of water, pipe lines, storage tank and any and all other portions of the system.

(F) The Water Company agrees that it will not supply any water or service outside the 240 acres belonging to Davies and Bonner and Davis without the written approval of Davies and Bonner and Davis.

(G) The Water Company agrees that it will carry or cause to have carried adequate liability insurance to protect itself and the other parties hereto from any and all liability resulting from the operation of the water system or the installation or maintenance of the water system.

3. When it becomes necessary to construct a water storage tank, David W. Davies and wife, Marion A. Davies agree to convey to the Water Company a site 50 feet by 50 feet from the back of a lot to be selected by him on his property with a 20 foot easement from said tank site to the nearest road dedicated by Davies. In the event that it is necessary that said tank site be larger, David W. Davies and wife, Marion A. Davies, agree to convey across the back of the lot selected by him as the tank site additional property which may be necessary. Such additional property shall be as selected by Davies. The Water Company agrees that the property conveyed will be a water storage tank site only and it will not be used for any other purpose such as storage of tools or other equipment. The Water Company further agrees to keep said property in a clean and in a good sitely condition. Davies agrees to pay the cost of a six inch water pipe line and fittings from the water storage tank site to the nearest road. The cost of the installation of the same shall be at the expense of the Water Company.

4. David W. Davies and wife, Marion A. Davies; Tom E. Bonner and wife, Nell C. Bonner; and Jim Davis and wife, Bobbie H. Davis and their heirs, successors or assigns agree to convey to the Water Company easements for the installation of water pipe lines along streets, alleys and easements as may be necessary to serve the said 240 acres. Such easements may be utilized for water service to other

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properties subject to paragraph 2(F) hereof.

5. In the event that it becomes necessary to drill a new well in order to carry out this agreement, the undersigned Robert Nichols agrees to pay one-third of the cost of said new well, David W. Davies agrees to pay one-third of the said cost, and Jim Davis and Tom E. Bonner, jointly or severally, agree to pay one-third of the said cost of a new well. This paragraph shall be null and void after ten (10) years from the date hereof.

6. In order to insure the performance of all promises and agreements of the parties hereto, the undersigned Robert Nichols, David W. Davies, Jim Davis and Tom E. Bonner have entered into a separate agreement which is by reference incorporated herein.

This agreement shall inure and be binding upon the heirs, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on this the 18<sup>th</sup> day of January, 1964.

INDIAN HILLS WATER COMPANY, INC.

By: R. J. Nichols  
Its President

Robert Nichols  
Robert Nichols

David W. Davies  
David W. Davies

Marion A. Davies  
Marion A. Davies

Jim Davis  
Jim Davis

Bobbie H. Davis  
Bobbie H. Davis

Tom E. Bonner  
Tom E. Bonner

Nell C. Bonner  
Nell C. Bonner



STATE OF ALABAMA)

JEFFERSON COUNTY)

WHEREAS, the undersigned David W. Davies, James B. Davis and Robert Nichols are personally familiar with all of the installations now owned by the Indian Hills Water Company, Inc. located in Shelby County, Alabama, just westerly of U. S. 31 South, including all water mains of said company now in service; and

WHEREAS, said Town is desirous of receiving assurances that said water mains are located within dedicated easements, including roadways and utility easements within the subdivisions platted by Davies and within subdivisions platted by Davis.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES, and to induce said Town to purchase said water system and to enter into the agreement of which this instrument is Exhibit B thereto, the undersigned do hereby warrant that the water mains and lines now owned by said Indian Hills Water Company, Inc. are located within dedicated easements.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this the \_\_\_\_ day of April, 1968.

WITNESS:

Mrs. Dorothy M. Fulton

Mrs. Dorothy M. Fulton

Mrs. Dorothy M. Fulton

David W. Davies  
David W. Davies

James B. Davis  
James B. Davis

Robert G. Nichols  
Robert G. Nichols