

SEWER SERVICE AGREEMENT

BETWEEN

DOUBLE OAK WATER RECLAMATION, L.L.C.

AND

EBSCO DEVELOPMENT COMPANY, INC.

Subscriber

For

**200,000 Gallons Per Day
Reserved Sewage Treatment Capacity**

**MT. LAUREL ON HIGHWAY 41, SHELBY COUNTY
Property**

Date:

6/22/99

Inst # 1999-35429

08/24/1999-35429
09:55 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
050 MMS 131.00

TABLE OF CONTENTS

Page

ARTICLE I - DEFINITIONS

1.1 Company's Real Property	1
1.2 Composite Sample	2
1.3 Date of this Agreement	2
1.4 Development	2
1.5 Meter	2
1.6 Metering Manhole	2
1.7 Metered Sewage	3
1.8 Plant	3
1.9 Plant Capacity	3
1.10 Qualified Independent Laboratory	3
1.11 Service Line	3
1.12 Sewage	3
1.13 Subscriber (not capitalized)	4
1.14 Subscriber (capitalized)	4
1.15 Subscriber's Purchasers	4
1.16 Surcharge	4
1.17 Term of this Agreement	4
1.18 Treatment Charge	4
1.19 Trunk Line(s)	4
1.20 Water Consumption	4

ARTICLE II - SERVICE LINE

2.1 Company's Representation	5
2.2 Subscriber's Trunk Lines	5
2.3 Inspection and Connection of Subscriber's Trunk Lines	6
2.4 Service Lines	6
2.5 Inspection and Connection of Service Lines	6

ARTICLE III - RESERVATION FEES

3.1 Treatment Reservation Fee	7
3.1.1 First Guaranteed Annual Payment	8
3.1.2 Second through Seventh Guaranteed Annual Payments	8
3.1.3 Eighth Guaranteed Annual Payment - Balance Due	8
3.2 Conditions on Reservation	8

ARTICLE IV - OPERATION

4.1 Treatment of Sewage by the Company	9
4.2 Subscriber to Have Sewage Treated	9

4.3 Treatment Charge	9
4.3.1 Use Charge	9
4.3.2 Administrative Charge	10
4.3.3 Increase of Treatment Charge	10
4.3.4 Treatment Charge Payment Schedule	10
4.3.4.1 First Year - Guaranteed Treatment Charges	11
4.3.4.2 Second through Seventh Years - Guaranteed Treatment Charges	11
4.3.4.3 Monthly Payments Thereafter - One Hundred Percent (100%)	12
4.4 Default by Subscriber	12
4.4.1 Default in Payment of the Treatment Reservation Fee or Treatment Charge	12
4.4.2 Default in Volume of Sewage Being Treated; Termination of Service; Surcharge	13
4.4.3 Default in Composition of Sewage - Additional Charges	15
4.4.4 Lien	16
4.5 Default by Company	19
4.6 No Waiver	19
4.7 Repossession of Trunk Lines	19
4.8 Additional Remedies	19

ARTICLE V - GENERAL

5.1 Term	20
5.2 Notices	20
5.2.1 The Company	20
5.2.2 Subscriber	20
5.3 Headings	20
5.4 Assignment and Reacquisition of Treatment Capacity	21
5.5 Applicable Law; Binding Effect	22
5.6 Entire Agreement	22
5.7 Severability	22
5.8 Miscellaneous	22
5.9 Attorneys Fees	22
5.10, Written Statement of Account	22

EXHIBIT A	25
EXHIBIT B	26
EXHIBIT C	27
EXHIBIT D	28
EXHIBIT E	32
EXHIBIT F	34
EXHIBIT G	37
EXHIBIT H	39
EXHIBIT I	40
EXHIBIT J	41

(STATE OF ALABAMA)
(SHELBY COUNTY)

SEWER SERVICE AGREEMENT

This Agreement is effective as of the _____ day of _____, 1999, (herein called Agreement) by and between DOUBLE OAK WATER RECLAMATION, L.L.C., an Alabama limited liability the Company, and its successors and assigns (herein called "the Company") and EBSCO DEVELOPMENT COMPANY, INC., an Alabama corporation (herein called "Subscriber").

WHEREAS, the Company owns and operates a sewage collection and treatment facility (the "Plant" as defined below) near the intersection of old and new U. S. Highway 280 in Shelby County, Alabama; and

WHEREAS, the Plant has limited sewage treatment capacity and a portion of such sewage treatment capacity is reserved for the collection and treatment of sewage from property being developed or to be developed by the Company, its affiliates and/or assigns; and

WHEREAS, Subscriber is developing certain real property in Shelby County, Alabama, and desires to enter into this Agreement with the Company to reserve a portion of the Plant's remaining available sewage treatment capacity in order to assure the collection and treatment of sewage from Subscriber's development; and

WHEREAS, Subscriber will sell lots or parcels within the development for use and occupancy by other parties who will enter into separate agreements with the Company, as provided in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants contained herein, the Company and Subscriber hereby agree as follows:

ARTICLE I - DEFINITIONS

Whenever the words and terms defined in this Article are used in this Agreement, they shall have the meanings assigned to them in this Article.

1.1 **Company's Real Property:** The real property on which the Plant is located, together with all easements for roadways, utility lines and Trunk Lines, owned by the Company, and which are related to the collection of sewage and/or the operation of the Plant. The Company's Real Property is described on the attached Exhibit J.

1.2 **Composite Sample:** A sample of Subscriber's effluent, taken from the Subscriber's Service Line, and based on a composite of two or more equal size samples taken either at regular intervals over a 24-hour period, or at uniform increments of gallonage or flow over a 24-hour period.

1.3 **Date of this Agreement:** The date set forth in the first line of the first page of this Agreement.

1.4 **Development:** The real property described in Exhibit A and improvements now or hereafter constructed thereon, owned by Subscriber or Subscriber's Assignees, which are to be provided sewage treatment services from the Plant; together with such additional lands as Subscriber determines, in its sole discretion, to add to the provisions of this Agreement, by written notice to the Company together with the legal description thereof. Such additional lands may be so added to the provisions of this Agreement only if such additional lands are (i) adjacent to and contiguous with the real property described in Exhibit A, (ii) are connected to the Company's Trunk Line on Highway 41 either through the Trunk Lines within the real property described in Exhibit A or at the same connection point as the Trunk Lines serving the real property described in Exhibit A and (iii) Subscriber has reserved with the Company sufficient sewage treatment capacity to serve such additional lands. As portions of the lands comprising the Development are conveyed by Subscriber to any Subscriber's Assignee, then the Development shall no longer be deemed to include the lands so conveyed, and the Company shall look solely to such Subscriber's Assignee for the performance of any obligations of Subscriber with respect to the lands so conveyed.

1.5 **Meter:** A measuring device which may be provided by the Company to measure the total effluent from any lot or parcel within the Development into the Trunk Line. If a Meter is installed, it shall be installed in a Metering Manhole to be located at, or as close as possible to, the point where any Subscriber's Service Line connects to the Trunk Line. The Company shall have no obligation to install a Meter, but may do so at any time, and from time to time, on a temporary, long-term or permanent basis. Subscriber shall not have the right to require the Company to install a Meter.

1.6 **Metering Manhole:** A permanent means of access to the Subscriber's Service Lines in which the Company may install a meter at its sole discretion. The Metering Manholes are to be located as close as possible to the points where the Subscriber's Service Lines connect to the Trunk Line and the location of the Metering Manholes shall be approved by the Company's Engineer prior to installation and shall be at the Company's expense.

1.7 **Metered Sewage:** If a Meter has not been installed, or has been installed but is not being used, "Metered Sewage" shall mean the number of gallons of sewage, water or other effluent from Subscriber's lots or parcels which passes through Subscriber's Service Line, and the volume of such sewage, water or other effluent-which passes through Subscriber's Service Line during any period shall be considered to be eighty-five percent (85%) of the number of gallons of water used by the Subscriber during such period, as measured by the water meter or

water meters which serve the Development, regardless of the actual volume of such sewage, water or other effluent which passes through Subscriber's Service Line during such period. If the water to sewer ratio for a particular property is significantly different because of the type of use of such property, a different percentage shall be used with respect to such other types of uses and shall be such percentage as is reasonable for the particular use, but in no event greater than 85%. If a Meter has been installed and is being used, "Metered Sewage" shall mean the actual volume of sewage, water or other effluent from Subscriber's lots or parcels which passes through and is measured by the Meter between Subscriber's Service Line and the Trunk Line. A Subscriber shall have the right to install, at the Subscriber's expense, a meter to measure the volume of water which does not pass through the Subscriber's Service Line, in which event "Metered Sewage" shall mean the number of gallons of water used by the Subscribers as measured by the water meter which serves a Subscriber's lot or parcel, less the number of gallons which pass through the meter installed by the Subscriber.

1.8 **Plant:** The Company's sewage treatment facility, located near the intersection of old and new U.S. Highway 280 in Shelby County, Alabama, including the Company's Real Property and any additions thereto, all appurtenances, additions and expansions thereto, and any additional sewage treatment facilities which the Company may hereafter acquire or construct, including all appurtenances, additions and expansions to such additional sewage treatment facilities, including the Trunk Lines and all pumps, generators, manholes and other such facilities as are constructed or installed by Subscriber within the Development, to service the lots, parcels or other portions of the lands which comprise the Development. The Plant shall not include any Service Lines and pumps which serve only one lot or parcel with the Development.

1.9 **Plant Capacity:** The total number of gallons per day of effluent which may be treated by the Plant under all permits of the Company for the Plant issued by the Alabama Department of Environmental Management, whether such permits are now in effect or are hereafter issued, and any renewal or extension of any such permits.

1.10 **Qualified Independent Laboratory:** A commercial laboratory licensed to perform the analytical tests in Exhibit B in accordance with standard methods and procedures and approved by the Alabama Department of Environmental Management as qualified.

1.11 **Service Line:** A sewage collection line which transports sewage to the Trunk Line from the lots or parcels within the Development upon which houses, commercial buildings and such improvements shall be constructed.

1.12 **Sewage:** Domestic wastewater which does not exceed the maximum Wastewater Standards set forth in Exhibit B.

1.13 **Subscriber:** (not capitalized) a person, firm or corporation executing an agreement with the Company for the purpose of obtaining sewage treatment services from the Company at the Plant, and its successors and assigns.

1.14 **Subscriber:** (capitalized) EBSCO Development Company, Inc. which is executing this Agreement with the Company for the purpose of obtaining sewage treatment services for the Development from the Company at the Plant, and its successors and assigns.

1.15 **Subscriber's Assignee:** A commercial, residential or other purchaser, lessee or developer of real property within Subscriber's Development (including home builders and any entity acquiring a portion of the Development for a public or private school) and their heirs, successors and assigns, who will be obtaining sewage treatment services from the Company at the Plant and which is a successor and assignee of a portion of the sewage treatment capacity reserved hereby. Subscriber's reservation of sewage treatment capacity hereby is for the benefit of Subscriber and Subscriber's Assignees. Prior to the assignment to Subscriber's Assignee of a portion of Subscriber's sewage treatment capacity reserved hereby, said Subscriber's Assignee and the Company shall enter into a Sewer Service Agreement, substantially similar to this Agreement, whereby Subscriber's Assignee assumes the obligations of Subscriber hereunder and whereby Subscriber's assignee and the Company agree to be bound by the terms and provisions hereof for that portion of the sewage treatment capacity assigned to Subscriber's Assignee. Upon any such assignment, Subscriber shall be forever released from any obligations in connection therewith. The Company reserves the right to refuse sewage treatment service to a Subscriber's Assignee if such Subscriber's Assignee fails to enter into such a Sewer Service Agreement so as to be bound by all the terms and provisions hereof.

1.16 **Surcharge:** An incremental charge to a subscriber for treatment of sewage in excess of subscriber's reserved sewage treatment capacity or which exceeds the maximum Wastewater Standards as set forth in Exhibit B.

1.17 **Term of this Agreement:** The initial term shall be as set forth in Section 5.1 hereof.

1.18 **Treatment Charge:** The Treatment Charge consists of any and all charges and fees payable by Subscriber to the Company hereunder including, but not limited to, the Use Charge and Administrative Charge described in Section 4.3, and the Surcharges and additional charges described in Sections 4.4.2 and 4.4.3.

1.19 **Trunk Line(s):** The sewage collection line or lines owned, operated and maintained by the Company to which Service Lines connect and which transports the sewage from Subscriber's Development to the Plant, including all appurtenances, lift stations, and additions thereto, and including the sewage collection lines and all appurtenances, lift stations and additions thereto which are installed by Subscriber within the streets, alleys, easements or other common areas or public ways within the Development. Trunk Lines do not include any Service Line.

1.20 **Water Consumption:** Subscriber's water consumption as evidenced by the original billing from the water utility company serving the Development.

ARTICLE II - SUBSCRIBER'S LINES

2.1 **Company's Representation:** The Company represents and warrants (a) that it has and will maintain all permits necessary to operate the Plant in full compliance with all applicable local, state and federal laws, rules and regulations (the "Regulations"), including, but not limited to, a discharge permit from the Alabama Department of Environmental Management, (b) that on or before March 1, 2000, the Company will complete the installation, at its expense, of such Trunk Lines and other Plant facilities as are necessary to create sufficient Plant Capacity to service Subscriber's then current sewage treatment capacity plus the sewage treatment capacity promised by the Company for the benefit of other subscribers, all in compliance with the Regulations, (c) that subsequent to March 1, 2000 and for the balance of the term of this Agreement, the Company will provide the sewage treatment capacity required by Subscriber, up to the amount reserved by Subscriber under this Agreement, upon demand by Subscriber, (d) that the Company will not sell or promise sewage treatment capacity to other parties in any manner which would cause the Plant Capacity to be insufficient to cover the gallons per day of sewage treatment capacity sold or promised by the Company, (e) that the Company owns the fee simple title to the Company's Real Property and the other components of the Plant, and has the authority to bind the Company's Real Property and the other components of the Plant to the terms and provisions of this Agreement, (f) that the Company does hereby forever dedicate, burden and bind the Company's Real Property and the other components of the Plant to the covenants, terms and provisions of this Agreement, which shall forever bind and run with the lands herein described, for the benefit of the Development and as a servitude upon the Company's Real Property and the other components of the Plant, and (g) that the Company shall maintain, at its expense, in compliance with all Regulations, the Company's Real Property, the Trunk Lines, the Plant and all appurtenances to the Plant, and shall do and perform such additional work as is necessary to provide continuous uninterrupted sewer treatment services to the Development in accordance with the provisions of this Agreement. The Company's obligations hereunder are subject to and contingent upon the amendment of the April 15, 1998 Agreement for Installation of Sanitary Sewer Facilities on County Highway Rights of Way (the "County Agreement") so that the Company's Trunk Line may access and serve Subscriber's Development. If the Company does not provide written notice to Subscriber together with a copy of said amendment that the County Agreement has been so amended on or before September 20, 1999, then Subscriber may, at its election, terminate this Agreement by written notice to the Company.

2.2 **Subscriber's Trunk Lines:** Subscriber agrees to install at its expense the portions of the Trunk Lines to be located within the Development and to connect same to the Trunk Line to be installed by the Company within the right-of-way of Shelby County Highway 41 (the "Company's Highway 41 Trunk Line") at a point approximately located as indicated in Exhibit C, such connection to be in accordance with Section 2.3. Subscriber shall install at Subscriber's expense its Trunk Lines, lift stations and other facilities and equipment necessary to transport sewage from the streets, alleys, easements or other common areas or public ways within the Development to the Company's Highway 41 Trunk Line, including a Metering Manhole and a generator at the point of its connection of the Trunk Lines within the Development to the Company's Highway 41 Trunk Line. Furthermore, Subscriber shall pay to the Company the cost

of upsizing the Company's Highway 41 Trunk Line so that the Company's Highway 41 Trunk Line's capacity is increased sufficiently to service Subscriber's 200,000 gallons per day of sewage treatment capacity reserved hereby, up to but not in excess of \$50,000. The Company shall provide a copy of any invoice from the contractor showing such price increase. Upon completion of construction by Subscriber of the Trunk Lines, lift stations, Metering Manhole and generator within the Development, as aforesaid, the Company shall become obligated to maintain the same in the same manner as it is obligated to maintain other portions of the Trunk Lines and the Plant, and the same shall not be deemed to be a part of any Service Lines.

2.3 Inspection and Connection of Subscriber's Trunk Lines: The Company shall have the right to inspect any Trunk Line being constructed and installed by Subscriber within the Development at any and all times during their construction and installation. Subscriber shall give the Company written notice of its intention to install a Trunk Line at least three (3) working days in advance of the commencement of such installation. Subscriber shall notify the Company at least seven (7) days in advance of the time when it intends to connect its Trunk Lines to the Company's Highway 41 Trunk Line. Such connection shall be performed at Subscriber's expense and in accordance with Exhibit D and shall be reviewed and approved by the Company. It is agreed and understood that the Company shall have the absolute right and privilege to refuse and prohibit the initial connection of Subscriber's Trunk Lines to the Company's Highway 41 Trunk Line if the wastewater volumes, as estimated in accordance with Exhibit E, necessary to serve the improvements under construction on Subscriber's Development exceed the amount of capacity reserved in Article III hereof, and/or if Subscriber's Trunk Line is not installed in accordance with Exhibit D. After Subscriber's installation of a Trunk Line in compliance herewith, such Trunk Line shall be owned, operated and maintained by the Company at its expense and in accordance with the Regulations, and such Trunk Line shall become a Trunk Line as defined in Section 1.19 hereinabove. Subscriber hereby grants to the Company a permanent and perpetual non-exclusive easement over, across, through and upon any and all portions of the Development which are dedicated to public use or designated as easements or common areas and in which a Trunk Line is installed as is reasonably necessary for the purpose of the inspection, maintenance, repair and replacement thereof. The Company shall repair, at its expense, any damage to any paving, curbs, sidewalks, landscaping or other improvements, which results from any such inspection, maintenance, repair or replacement.

2.4 Service Lines: Subscriber agrees to connect its Service Lines to the Trunk Lines within the Development. Subscriber shall install and maintain at Subscriber's expense its own Service Lines, pumps, and other facilities and equipment necessary to transport sewage from the homes and other improvements constructed upon lots and parcels within the Development to the Trunk Lines, including those installed by Subscriber within the Development.

2.5 Inspection and Connection of Service Lines: The Company shall have the right to inspect the Service Lines at any and all times during their construction and installation. Subscriber shall give the Company written notice of its intention to extend a Service Line to any improvement at least one (1) working day in advance of the commencement of such extension. Subscriber shall notify the Company at least three (3) days in advance of the initial construction

of a Trunk Line and the stub-out from the Trunk Line for a Service Line. Such connection shall be performed at Subscriber's expense and in accordance with Exhibit D and shall be reviewed and approved by the Company. It is agreed and understood that the Company shall have the absolute right and privilege to refuse and prohibit the initial connection of a Service Line to the Trunk Line if the wastewater volumes, as estimated in accordance with Exhibit E, necessary to serve the improvements under construction on a lot or parcel within the Development to be connected to the Trunk Line exceed the amount of capacity reserved in Article III hereof, and/or if the Service Line is not installed in a manner required under Exhibit D. After the installation of a Service Line, the Company shall have the right, at any time, to inspect the lot or parcel within the Development which is served by the Service Line, and all improvements thereon, and the Service Line for the purpose of determining the amount and content of the effluent being put into the Trunk Line through the Service Line. The Company reserves the right to install a Metering Manhole, at Subscriber's expense, for the purpose of measuring the sewage. The Company shall have the right, but shall not be obligated, to install a Meter on any non-residential lot or parcel to measure the effluent from said lot or parcel into the Trunk Line at any time, and from time to time, on a temporary, long-term or permanent basis. Subscriber shall not have the right to require the Company to install a Meter; provided that, prior to requiring the installation of a Metering Manhole or a Meter, the Company must have a reasonable basis upon which to expect that the capacity reserved for the lot or parcel within the Development is being exceeded and must first notify Subscriber, in writing, setting forth any such basis. Subscriber's cost of the Metering Manhole installation must be reasonable and not in excess of pricing in the market.

ARTICLE III - RESERVATION FEES

3.1 **Treatment Reservation Fee:** Subscriber hereby reserves and subscribes to sewage treatment capacity at the Plant of TWO HUNDRED THOUSAND (200,000) gallons per day ("gpd"). It is agreed and understood that such capacity is equivalent to wastewater volumes as estimated in accordance with Exhibit E for the proposed improvements in Subscriber's Development.

To reserve sewage treatment capacity at the Plant of 200,000 gpd, Subscriber hereby agrees to pay to the Company a reservation fee for each gpd of sewage capacity reserved (the "Treatment Reservation Fee"). The current Treatment Reservation Fee is \$13.32 per gpd of sewage capacity reserved and the Company shall have the right at any time, and from time to time, to increase the Treatment Reservation Fee to the same reservation fee then being charged by the Shelby County Commission, or its successors and assigns; provided, however, that the Treatment Reservation Fee shall never be less than \$13.32 per gallon of sewage treatment capacity reserved. Subscriber hereby guarantees to the Company the payment of the Treatment Reservation Fee in eight annual installments of 25,000 gpd of sewage treatment capacity per installment (the "Guaranteed Annual Payments"). The amount of each Annual Payment shall be determined by multiplying the 25,000 gpd of sewage treatment capacity hereby guaranteed by Subscriber per year (the "Guaranteed Annual GPD") by the per gallon per calendar year Treatment Reservation Fee current at the time of the Annual Payment. Subscriber hereby guarantees the Guaranteed Annual Payments to the Company regardless of the amount of capacity

reserved to Subscriber's Assignees or the use or non-use of the reserved sewage treatment capacity by Subscriber or Subscriber's Assignees.

3.1.1 First Guaranteed Annual Payment: In consideration of the first Guaranteed Annual GPD reserved by Subscriber, the First Guaranteed Annual Payment of \$333,000.00 of the Treatment Reservation Fee shall be paid by Subscriber to the Company on January 1, 2001. During the first calendar year of this Agreement (January 1 through December 31), Subscriber shall receive a credit toward the First Guaranteed Annual Payment of the Treatment Reservation Fees paid to the Company by Subscriber's Assignees who subscribe to the Company's sewage treatment services during said calendar year. The balance of the First Guaranteed Annual Payment shall be due and payable by Subscriber on January 1, 2001. In the event such credits toward the First Guaranteed Annual Payment exceed the amount due as the First Guaranteed Annual Payment, the excess shall be applied and credited toward the next succeeding Guaranteed Annual Payment.

3.1.2 Second through Seventh Guaranteed Annual Payments: In consideration of each Guaranteed Annual GPD reserved to Subscriber, the Second, Third, Fourth, Fifth, Sixth and Seventh Guaranteed Annual Payments of the Treatment Reservation Fee shall each be in the amount of 25,000 gpd multiplied by the current per gallon Treatment Reservation Fee. Such Guaranteed Annual Payments shall be paid by Subscriber to the Company on each respective anniversary date of the First Guaranteed Annual Payment (e.g., the Second Guaranteed Annual Payment is due January 1, 2002; the Third Guaranteed Annual Payment is due January 1, 2003, and so forth). During each calendar year of this Agreement (from January 1 through December 31), Subscriber shall receive a credit toward the current year's Guaranteed Annual Payment for Treatment Reservation Fees paid to the Company by Subscriber's Assignees who subscribe to the Company's sewage treatment services during said calendar year. The balance of the current year's Guaranteed Annual Payment shall be due and payable by Subscriber on January 1 of the following year. In the event such credits toward the current year's Guaranteed Annual Payment exceed the amount due as the current year's Guaranteed Annual Payment, the excess shall be applied and credited toward the next succeeding Guaranteed Annual Payment.

3.1.3 Eighth Guaranteed Annual Payment - Balance Due: The Eighth, and final Guaranteed Annual Payment shall be the balance of the Treatment Reservation Fee due and payable by the Subscriber to the Company upon the Eighth Anniversary Date of this Agreement (January 1, 2008); provided, however, that if the first seven Guaranteed Annual Payments have been timely paid in full and in accordance with the terms and provisions hereof, Subscriber may elect to reassign to the Company the balance of the treatment capacity reserved by this Agreement for which the attributable Treatment Reservation Fee has not been paid. In the event Subscriber reassigns such reserved treatment capacity to the Company, the balance due as the Eighth Guaranteed Annual Payment shall be reduced by the amount of the current per gallon Treatment Reservation Fee multiplied by the number of gpd of capacity reassigned to the Company.

3.2 Conditions on Reservation: The reservation of the aforesaid 200,000 gallons of sewage treatment capacity for Subscriber shall (a) be restricted to serve only the real property

described in Exhibit A and any additional properties as provided in Section 1.4 of this Agreement, subject to the provisions of Section 5.4; (b) continue for the term of this Agreement; and (c) shall at all times during the term hereof remain in effect (as reduced pursuant to Section 3.1.3, if applicable, and as reduced pursuant to any assignments made pursuant to Section 5.4) without regard to whether or not Subscriber actually uses any or all of such reserved capacity.

ARTICLE IV - OPERATION

4.1 **Treatment of Sewage by the Company:** Subject to the provisions of Section 4.4, the Company agrees to treat all sewage from Subscriber's Development up to a maximum seven-day (7-day) average of 200,000 gpd in a timely manner and in compliance with all applicable laws, regulations, ordinances, contractual provisions, easements and permits.

4.2 **Subscriber to Have Sewage Treated:** Provided that the Company has not defaulted in the performance of any of its obligations under this Agreement, Subscriber agrees to have all sewage (up to a maximum seven-day average of 200,000 gpd) from Subscriber's Development treated by the Plant. If Subscriber should have any sewage from Subscriber's Development (except sewage in excess of the above seven-day average gpd) treated by any means other than the Plant, it is specifically understood and agreed that Subscriber shall continue to be responsible for payment of the Treatment Charge set forth in Section 4.3 for the remainder of the term hereof, provided that the Company has not defaulted in the performance of any of its obligations under this Agreement. It is agreed that any sewage which is deposited into the Trunk Line by Subscriber shall thereafter be the property of the Company.

4.3 **Treatment Charge:** In addition to the payment of the Treatment Reservation Fee, Subscriber agrees to pay the Company, beginning with the month of February, 2000, and for each succeeding month during the term hereof, a Treatment Charge consisting of two parts, Use Charge and Administrative Charge, as described in Sections 4.3.1, 4.3.2 and 4.3.3 below. The total monthly Treatment Charge for a Subscriber is the aggregate of the Use and Administrative Charges, plus applicable Surcharges as described in Section 4.4 below. If a Surcharge shall apply, the Treatment Charge shall include the applicable Surcharges and additional charges described in Section 4.4 below. Statements shall be sent to Subscriber by the Company from time to time and payment shall be due in accordance with the terms of such statements.

4.3.1 **Use Charge:** Subscriber agrees to pay the Company a monthly Use Charge of \$29.50 for each Equivalent Dwelling Unit (EDU), where one (1) EDU equals 275 gpd, the presumed average daily sewage flow from a standard residence. Regardless of whether a Subscriber owns a residence (Garden Home or Standard Home) or owns and operates a commercial (nonprofit or for-profit enterprise), the minimum monthly Use Charge will be \$29.50.

For Subscribers that own and operate a commercial development, the Use Charge will be calculated according to the number of EDUs the Subscriber's sewage flow represents. For example, a commercial Subscriber with an average daily sewage flow of 2,750 gpd, which is

equal to or less than the Subscriber's reserved capacity, will be equivalent to 10 EDUs and the Use Charge will be 10 times \$29.50 or \$295.00 per month. Refer to the details set forth in Exhibit F for calculation of the Treatment Charge.

The Company at its sole discretion may, from time to time as it shall determine, and without notice to the Subscriber, temporarily or permanently install Meters to make measurements of Subscriber's actual effluent rate (Sewage volume). These measurements shall be taken over a period of not less than twenty-four (24) consecutive hours. If such measurements disclose that the actual amount of effluent passing from the Subscriber's Service Line into the Trunk Line exceeds the Subscriber's reserved capacity during the billing period or periods during which such measurements were made, the Company shall have the right to apply a Surcharge to the excess flow. Refer to Section 4.4.2 of this Agreement, Default in Volume of Sewage Being Treated, for the cause and costs associated with a Surcharge for a Subscriber.

4.3.2 Administrative Charge: Subscriber agrees to pay the Company a monthly Administrative Charge of \$1.00 for billing and record keeping.

As an example of these Sections 4.3.1 and 4.3.2, and subject to Section 4.3.4.4, a subscriber who reserves 30,000 gallons per day of sewage treatment capacity shall pay monthly Treatment Charges as follows:

Use Charge:	at \$29.50/month per Equivalent Dwelling Unit (EDU)
EDUs:	$30,000\text{GPD}/275\text{GPD per EDU} = 109.09$
	EDUs
Subscriber's Use Charge:	$109.09 \text{ EDUs} \times \$29.50/\text{EDU} = \$3218.16 \text{ per month}$
Subscriber's Treatment Charge:	$\$3218.16 + \$1.00 = \$3219.16$

4.3.3 Increase of Treatment Charge: The Company shall have the right at any time, and from time to time, to increase the Use Charge, the Surcharge and/or the Administrative Charge as such Charges are further described in Exhibits F and G. The Company shall give Subscriber advance notice of any such increase. Such increase shall not cause the Treatment Charge or any of the other charges to be in excess of the lowest charges made by the Shelby County Commission, or its successors or assigns, for similar sewage treatment services, or the lowest charges made by the Company to other subscribers; provided, however, notwithstanding the Treatment Charges charged by the Shelby County Commission, or its successors or assigns, such Treatment Charge applicable hereunder shall never be less than the Treatment Charge currently in effect as of the Date of this Agreement.

4.3.4 Treatment Charge Payment Schedule: Notwithstanding the commencement date for payment of the Treatment Charge as provided in Section 4.3 above, in the event the Subscriber pays the Treatment Reservation Fee required by Section 3.1 in accordance with the payment schedule provided in Sections 3.1.1, 3.1.2 and 3.1.3, Subscriber's payment of the Treatment Charge shall be due and payable as follows:

4.3.4.1 First Year - Guaranteed Treatment Charges: As of December 31, 2000, Subscriber guarantees to the Company that the Company will receive monthly Treatment Charges for the Guaranteed Annual GPD in the amount set forth below in this Section 4.3.4. ("Guaranteed Treatment Charges"). As of December 31, 2000, Subscriber shall receive a credit toward the Guaranteed Treatment Charges for monthly Treatment Charges which are payable to the Company by Subscriber's Assignees who shall pay Treatment Charges beginning with the month following the calendar month of the effective date of Subscriber's Assignee's Sewer Service Agreement and, subject to Section 4.3.3 above, in the amount set forth in Sections 4.3.1 and 4.3.2 above. In the event Subscriber's Assignees are collectively obligated to pay monthly Treatment Charges for less than the 25,000 Guaranteed Annual GPD as of December 31, 2000, Subscriber shall pay to the Company fifty percent (50%) of the balance due of the Guaranteed Treatment Charges, calculated as follows:

25,000 gpd minus the gpd subscribed to by
Subscriber's Assignees; divided by 275 EDU;
multiplied by \$29.50; multiplied by 50%
("Subscriber's Balance Due").

Said Subscriber's Balance Due of the Guaranteed Treatment Charges shall be due and payable by Subscriber on January 1, 2001 and, subject to monthly recalculation of Subscriber's Balance Due, on the first day of every month thereafter until such Treatment Charges are assigned to and assumed by Subscriber's Assignees, who shall pay such Treatment Charges at the rate set forth in Sections 4.3.1 and 4.3.2 above, subject to Section 4.3.3. In the event Subscriber's Assignees have collectively subscribed to more than the 25,000 Guaranteed Annual GPD and are obligated to pay monthly Treatment Charges therefor as of December 31, 2000, the excess shall be applied and credited toward the next annual Guaranteed Treatment Charges.

4.3.4.2 Second through Seventh Years - Guaranteed Treatment Charges: As of December 31 of the second, third, fourth, fifth, sixth and seventh calendar year of this Agreement, Subscriber guarantees to the Company that the Company will receive monthly Treatment Charges for the Guaranteed Annual GPD (the "Guaranteed Treatment Charges"). As of December 31 of each year, Subscriber shall receive a credit toward that year's Guaranteed Treatment Charges for monthly Treatment Charges payable to the Company by Subscriber's Assignees who shall pay Treatment Charges beginning with the month following the calendar month of the effective date of Subscriber's Assignee's Sewer Service Agreement. Subscriber's Assignees shall pay Treatment Charges in the amount set forth in Sections 4.3.1 and 4.3.2, subject to Section 4.3.3 above. In the event Subscriber's Assignees are collectively obligated to pay monthly Treatment Charges for less than the 25,000 Guaranteed Annual GPD as of December 31 of the respective calendar year, Subscriber shall pay to the Company Subscriber's Balance Due of the Guaranteed Treatment Charges for that year, calculated as set forth in Section 4.3.4.1 above. Said Subscriber's Balance Due of the Guaranteed Treatment Charges shall be due and payable by Subscriber on January 1 of the following year and on the first of every month thereafter at the reduced rate under Section 4.3.4.1 until such Treatment Charges are assigned to and assumed by Subscriber's Assignees. In the event Subscriber's Assignees have subscribed to

more than the 25,000 Guaranteed Annual GPD and are obligated to pay monthly Treatment Charges therefor as of December 31 of the respective year, the excess shall be applied and credited toward the next annual Guaranteed Treatment Charges.

4.3.4.3 Monthly Payments Thereafter - One Hundred Percent (100%): Subject to Section 4.3.3, one hundred percent (100%) of the Treatment Charges attributable to 200,000 gpd of sewage treatment capacity shall be paid by the Subscriber or Subscriber's Assignees to the Company beginning with the month following the calendar month of the Eighth Anniversary Date of this Agreement (January 1, 2008) and for each succeeding month during the term hereof.

In the event Subscriber exercises its option to reassign sewage treatment capacity to the Company as provided in Section 3.1.3 above, the Treatment Charges attributable to 200,000 gpd of sewage treatment capacity shall be reduced by the amount of \$29.50 (subject to Section 4.3.3) for every 275 gpd of capacity reassigned to the Company.

4.4 Default by Subscriber:

4.4.1 Default in Payment of the Treatment Reservation Fee or Treatment Charge: In the event Subscriber should default in the payment of the Treatment Reservation Fee pursuant to the Guaranteed Annual Payments described hereinabove, Company shall have the right to pursue any and all rights and remedies available to the Company, whether at law or in equity, including, but not limited to, actions for damages and specific performance. If Subscriber should default in any monthly payment of the Treatment Charge, and this default continues for a period of thirty (30) days after notice to Subscriber of such default given in the manner provided in Section 5.2, then the Company shall have the right to shut off or disconnect the Subscriber's Service Line from the Trunk Line and discontinue any sewage treatment services to Subscriber during such period of default. The Company shall reconnect such Service Line and resume sewage treatment service upon the payment to the Company of: (a) all delinquent Treatment Charges; (b) all Treatment Charges which are due but not delinquent; (c) the collection fee provided for in this Section 4.4.1; (d) all direct and indirect costs incurred by the Company in shutting off and turning on or disconnecting and reconnecting the Service Line to the Trunk Line; and (e) a deposit in the amount equal to the sum of the Treatment Charge for the three (3) most recent billing periods. The Company may deduct from such deposit any Treatment Charge or any other sums owed by Subscriber to the Company upon their becoming delinquent; provided that neither such deposit nor the Company's application thereof to the payment of the Treatment Charge shall excuse Subscriber from paying all Treatment Charges or other sums when they become due or prevent Subscriber from being in default hereunder should it fail to pay such Treatment Charges or other sums when due. If the Company applies all or any part of the deposit to the payment of the Treatment Charges, Subscriber must pay such amount to the Company within ten (10) days of such application by the Company (so that the amount of the deposit shall be the same as it was before such application) or the Company shall have the right to shut off or disconnect the Subscriber's Service Line from the Trunk Line and discontinue any sewage services to Subscriber during such period of default.

If Subscriber should default in the monthly payment of the Treatment Charge and/or Surcharge, and this default continues for a period of six (6) months after notice to Subscriber of such default given in the manner provided in Section 5.2, then the Company shall have the right to shut off permanently and disconnect Subscriber's Service Line from the Trunk Line to terminate this Agreement. In the event of any such termination by the Company, Subscriber shall no longer have any reserved treatment capacity in the Plant, and the Company may reallocate such treatment capacity to other persons, firms or corporations on such terms as it deems appropriate. In the event of any such termination, Subscriber shall not be entitled to a refund of any Treatment Reservation Fee or any other fees or charges paid by Subscriber, nor shall Subscriber be entitled to any part of any fees received by the Company upon the reallocation of such reserved treatment capacity previously held by Subscriber.

Thirty (30) days prior to, and again at ten (10) days prior to, any shut off or disconnection authorized by this Section 4.4.1, and thirty (30) days prior to, and again at ten (10) days prior to, any termination of this Agreement pursuant to this Section 4.4.1, the Company agrees to give written notice to Subscriber of such shut off, disconnection or termination in accordance with the notice provisions of Section 5.2.

If Subscriber's payment of the Treatment Charge and/or Surcharge is not received by the next billing date, Subscriber shall be charged the collection fee which is then being charged by the Company. The amount of such collection fee may be changed by the Company from time to time without notice to Subscriber. Such collection fee shall be due and payable immediately and shall be for the purpose of helping to pay the extra cost to the Company of handling and collecting delinquent payments. Subscriber also agrees to reimburse the Company for reasonable attorneys fees incurred by the Company in connection with the collection of any sums owed to the Company after a default in payment by Subscriber.

4.4.2 Default in Volume of Sewage Being Treated; Termination of Service; Surcharge: Subscriber shall not cause or permit water, sewage or any other effluent of any character to enter into the Trunk Lines in excess of a seven-day average of 200,000 gallons per day (herein called Average Daily Flow Limitation) as determined in accordance with the terms of this Agreement. Additionally, Subscriber shall not cause or permit water, sewage or any other effluent of any character to enter into the Trunk Lines on any one day in excess of 150% of Subscriber's total reserved capacity (i.e., 150% of 200,000 gpd = 300,000 gpd) (herein called the Maximum Daily Flow Limitation). The Average Daily Flow Limitation and the Maximum Daily Flow Limitation shall be deemed revised as Subscriber assigns portions of its reserved sewage treatment capacity pursuant to Section 5.4 or in the event of a reduction thereof pursuant to Section 3.1.3, in accordance with any such assignment or reduction.

If Subscriber's actual daily flow should exceed the Maximum Daily Flow Limitation on any one day in the thirty-day (30-day) period next following the date of written notice to Subscriber from the Company of a violation of the Maximum Daily Flow Limitation, the Company shall have the right, on three (3) days written notice to Subscriber, to shut off or disconnect the Subscriber's Service Line from the Trunk Line and discontinue any sewage

treatment service to Subscriber until such time as the Company is satisfied that Subscriber can comply with the Maximum Daily Flow Limitation, unless, prior to the expiration of such three-day period, Subscriber either: (a) satisfies the Company that it can comply with the Maximum Daily Flow Limitation; or (b) if the Company has sufficient additional unreserved capacity at the Plant, Subscriber enters into an amendment to this Agreement, on the same terms and conditions set forth herein (except as to rates and fees, which shall not be more than then being charged to new subscribers), for an amount of additional capacity sufficient to cause Subscriber's actual daily flow not to exceed 150% of Subscriber's new total reserved capacity.

If Subscriber's actual average daily flow (determined either by a Meter which may be installed permanently or temporarily, at the option of the Company) or by assuming it to be 85% of Subscriber's Water Consumption, or such different percentage of Subscriber's Water Consumption as determined to be appropriate pursuant to Section 1.7 of this Agreement, should exceed the Average Daily Flow Limitation in any seven-day period in the thirty-day period next following the date of written notice to Subscriber from the Company for a violation of the Average Daily Flow Limitation, the Company shall have the right, on three (3) days written notice, to shut off or disconnect the Subscriber's Service Line and discontinue any treatment service to Subscriber until such time as the Company is satisfied that Subscriber can comply with the Average Daily Flow Limitation; unless, prior to the expiration of such three-day period, Subscriber either: (a) satisfies the Company that it can comply with the Average Daily Flow Limitation; or (b) if the Company has sufficient additional unreserved capacity at the Plant, Subscriber enters into an amendment to this Agreement, on the same terms and conditions set forth herein (except as to rates and fees, which shall not be more than those then being charged to new subscribers) for an amount of additional capacity sufficient to cause Subscriber's actual average daily flow not to exceed 150% of Subscriber's new total reserved capacity.

Subscriber agrees to provide the Company copies of the original billing from the water utility company in a timely manner that evidence Subscriber's Water Consumption for the period(s) in question.

Subscriber shall be responsible for paying all reasonable direct costs incurred by the Company in shutting off or disconnecting and reconnecting the Service Line to the Trunk Line as provided in this Section 4.4.2.

In addition to any other rights or remedies of the Company herein, if Subscriber's average daily flow over any thirty-day period should exceed the amount of daily capacity then reserved by Subscriber, then the amount of such average flow in excess of such daily capacity then reserved (herein called Average Excess Flow) shall be subjected to a Surcharge equal to: the applicable Treatment Charge on such Average Excess Flow for the thirty-day period in which such excess occurs multiplied by a factor of ten (10) as illustrated in Exhibit G attached hereto. The Surcharge shall be increased each successive thirty-day period in which the excess flow continues to occur by increasing the factor by an additional ten (10). The Company shall not use the same calendar day in any two or more different thirty-day periods for the calculations in this paragraph. The Treatment Charge on any Average Excess Flow shall be

composed of: (a) the Surcharge then in effect on the Average Excess Flow; and (b) the Use Charge then in effect on the total excess flow; using the Average Excess Flow as the number of gallons of excess flow actually treated each day during the thirty-day period. An example of the Surcharge calculation is set forth in Exhibit G.

Subscriber agrees that any Surcharge collected by the Company from any other subscriber to the Plant due to a default in the volume of sewage being treated for such other subscriber shall belong to the Company and shall not be refunded or otherwise credited in any manner to Subscriber's account.

4.4.3 Default in Composition of Sewage - Additional Charges: Subscriber agrees that any substance caused or permitted by Subscriber to enter into a Trunk Line shall be composed of sewage only, and no such sewage shall exceed the maximum Wastewater Standards as to content or concentration set forth in Exhibit B. If Subscriber should begin discharging any effluent into the Trunk Line which exceeds the maximum Wastewater Standards set forth in Exhibit B, it is agreed that the following Surcharge shall apply:

4.4.3.1 If the average daily BOD₅, as determined by a Composite Sample of effluent at the point where Subscriber's Service Line meets the Trunk Line, should exceed 300 mg/l, the Use Charge then in effect shall be increased by \$.70 per pound of BOD₅ in excess of 2.5 lb./1000 gallons, and such charge of \$.70 per pound may be increased by the Company from time to time, without notice to Subscriber. This Surcharge shall continue to apply for a period of thirty days following the discovery of any such excess BOD₅, or until such time as new analyses of Subscriber's effluent, based on a Composite Sample taken as aforesaid and conducted on behalf of Subscriber at Subscriber's expense by a Qualified Independent Laboratory, indicate reduction to the 300 mg/l Maximum Concentration, whichever first occurs; or if additional such analyses reveal a new average level, the Surcharge shall be adjusted in accordance with the concentrations determined in such new analyses, which Surcharge shall apply in lieu of any previous Surcharge under this Section 4.4.3.1.

4.4.3.2 If the average daily total suspended solids, as determined by a Composite Sample of effluent at the point where Subscriber's Service Line meets the Trunk Line, should exceed 350 mg/l, the Use Charge then in effect shall be increased by \$.30 per pound of suspended solids in excess of 2.9 lb./1000 gallons, and such charge of \$.30 per pound may be increased by the Company from time to time without notice to Subscriber. This Surcharge shall continue to apply for a period of thirty (30) days following the discovery of any such excess suspended solids, or until such time as new analyses of Subscriber's effluent, based on a Composite Sample taken as aforesaid and conducted on behalf of Subscriber at Subscriber's expense by a Qualified Independent Laboratory, indicate reduction to the 350 mg/l Maximum Concentration, whichever first occurs; or if additional such analyses reveal a new average level, the Surcharge shall be adjusted in accordance with the concentrations determined in such new analyses, which Surcharge shall apply in lieu of any previous Surcharge under this Section 4.4.3.2. The Company shall not use the same calendar day in any two (2) or more different thirty-day (30-day) periods for the calculations in this paragraph.

Subscriber acknowledges that the introduction of effluent into the Plant and Trunk Lines which exceeds the maximum Wastewater Standards as to content and concentration set forth in Exhibit B could seriously upset or damage the biological processes at the Plant and Plant equipment (which terms include Trunk Lines and pump stations). Therefore, Subscriber specifically understands and agrees that, notwithstanding any imposition of additional treatment charges under this Section 4.4.3, the Company shall have the absolute right, without prior notice, to shut off or disconnect Subscriber's Service Line from the Trunk Line and to discontinue any sewage treatment service to Subscriber when, in the sole opinion of the Company and based on an actual sample of Subscriber's effluent, such action is necessary to prevent damage or further damage to the Plant's biological processes or to Plant equipment by Subscriber's effluent which exceeds the maximum Wastewater Standards set forth in Exhibit B. The Company shall make a good faith effort to notify Subscriber by telephone prior to any such disconnection or discontinuance of service, or, if such effort is not successful, then the Company shall notify Subscriber as promptly as possible following any such disconnection or discontinuance. Service shall be restored to Subscriber at such time as it satisfies the Company that it can comply with the Wastewater Standards.

Subscriber shall be responsible for promptly notifying the Company of any discharge (anticipated, suspected or known to have occurred) to the Trunk Line which is or could be potentially explosive or otherwise in excess of the Domestic Wastewater Standards set forth in Exhibit B.

Subscriber shall be responsible for paying all reasonable costs incurred by the Company in shutting off and turning on or disconnecting and reconnecting the Service Line to the Trunk Line as provided in this Section 4.4.3; Additionally, if Subscriber's, or Subscriber's agent's, employee's or subcontractor's failure to comply with the Wastewater Standards set forth in Exhibit B results in damage to the Plant's biological processes or to Plant equipment, then Subscriber agrees promptly to pay the Company for all costs of reinstating the biological processes and/or repairing the Plant equipment, and further agrees to indemnify, hold harmless and defend the Company from the payment of any sum or sums of money to any person or governmental body, and against any other consequential damages to the Company, resulting from damage to the Plant's biological processes and/or Plant equipment by Subscriber's effluent which exceeds the Wastewater Standards on Exhibit B including, but not limited to, fines or penalties imposed on the Company by any court or governmental agency, and suits or claims from other subscribers or third parties in connection with the interruption of sewage treatment or injuries or death to persons or damage to property caused by such failure to comply with the Wastewater Standards.

4.4.4 Lien: In addition to or as an alternative to any other rights or remedies of the Company herein, Subscriber by execution of this Agreement is hereby deemed to covenant and agree to pay to the Company any and all Treatment Reservation Fees, Treatment Charges, Surcharges and additional charges and fees in accordance with the provisions of this Agreement (collectively the "Treatment Charges"). All Treatment Charges, together with late charges and interest as provided below, and all court costs and attorneys' fees incurred by the Company to

enforce or collect such Treatment Charges shall be an equitable charge and a continuing lien upon the Development, which lien may be enforced in the manner provided below. Subscriber shall be personally liable for the payment of all Treatment Charges coming due while Subscriber is the owner of the Development and Subscriber's grantee shall take title to such Development, or any portion thereof, subject to the equitable charge and continuing lien therefor which shall run with the land and title to the Development and any portion thereof. All Treatment Charges, together with late charges and interest at the Applicable Rate, as specified below, court costs and attorneys' fees incurred with respect thereto by the Company shall also be a personal obligation of the person who was the Subscriber of the Development at the time such Treatment Charge and other costs and charges were incurred. The Subscriber shall not be liable for the payment of any charges applicable to any treatment capacity which has been assigned pursuant to Section 5.4 nor shall the Development be subject to any lien in connection therewith.

(a) In the event any Treatment Charge or any portion thereof is not paid when due, the same shall be subject to a late charge in an amount determined from time to time and uniformly applied by the Company. In the event any Treatment Charge or any portion thereof is not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Treatment Charge shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Subscriber by law (the "Applicable Rate") from and after the thirtieth (30th) day from the due date until the same is paid in full. In the event the Company employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from Subscriber, Subscriber agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the Company. The lien and equitable charge upon the Development for Treatment Charges shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Company in attempting to collect any unpaid Treatment Charges.

(b) In the event any Treatment Charges are not paid by Subscriber when the same come due, then, in addition to all other rights and remedies provided at law or in equity, the Company may undertake any or all of the following remedies:

(i) The Company may commence and maintain a suit at law against Subscriber to enforce such charges and obligations for Treatment Charges and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, as specified above, together with attorneys' fees, court costs and all other expenses paid and incurred by the Company in collecting such unpaid Treatment Charges; and/or

(ii) The Company may enforce the lien created above in the manner hereinafter provided.

(c) There is hereby created a continuing lien on the Development, with power of sale, which secures the payment to the Company of any and all Treatment Charges owed by Subscriber, all late charges and interest at the Applicable Rate, all attorneys' fees, court costs

and all other expenses paid or incurred by the Company in collecting any Treatment Charges. If any portion of the Treatment Charges remains unpaid for more than sixty (60) days, then the Company may, but shall not be obligated to, make written demand on such defaulting Subscriber, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Company may file a claim of lien and perfect its lien against the Development, which claim shall contain the following information and be recorded in the Probate Office of Shelby County, Alabama:

- (i) The name of the delinquent Subscriber;
- (ii) The legal description of the Development, or any portion thereof;
- (iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and
- (iv) A statement that the claim of lien is made by the Company pursuant to this Agreement and is claimed against the Development in an amount equal to that stated therein.

A copy of the foregoing statement of lien shall be served upon Subscriber and any association established to manage any common areas within the Development, provided that said association requests in writing that such statements be given and provides the address of the association for notification purposes. The lien provided for herein shall be in favor of the Company and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time, and shall be subject to redemption in the same manner as redemptions from the foreclosure of a mortgage of real property under the laws of the State of Alabama. The Company shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell the Development. Subscriber, by execution hereof, shall be deemed to (1) grant to and vest in the Company and/or its respective agents, the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grants to and vest in the Company and/or their respective agents, as the case may be, the right and power to bring all actions against such Subscriber personally for the collection of all amounts due from such Subscriber, (3) expressly waives any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waives the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure. Notices of foreclosure shall be given in the same manner as required under applicable State of Alabama and federal laws with respect to the foreclosure of real estate mortgages.

4.5 Default by Company: In the event of the default by the Company in the performance of its obligations under this Agreement, then Subscriber shall be entitled to the following remedies: specific performance; damages; the right to cure the default and offset the costs thereof against Treatment Charges; the recovery of its attorneys' fees and other expenses incurred in connection with any such default and the pursuit of any remedy therefor; the right to terminate this Agreement; or any one or more of the foregoing.

4.6 No Waiver: No delay or omission of the Company or Subscriber to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Agreement, or by law, statute, in equity, to the Company or Subscriber may be exercised from time to time and as often as may be deemed expedient by the Company or Subscriber. No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then-existing default or shall impair any rights, powers or remedies consequent thereon.

In addition to any other agreements and covenants herein, it is specifically understood that any continuing defaults by Subscriber under Sections 4.4.2 and 4.4.3 shall not be construed so as to permit or give Subscriber any right whatsoever to continue such defaults. With respect thereto, it is specifically understood and agreed that the imposition and collection of Surcharges and additional charges under Sections 4.4.2 and 4.4.3 shall not constitute a waiver of acquiescence by the Company of any defaults by Subscriber hereunder. Similarly, any continuing defaults by the Company pursuant to this Agreement shall not constitute a course of performance which has been accepted by the parties hereto, or indicative of their intent.

4.7 Repossession of Trunk Lines: In addition to the provision of Section 4.5 above, in the event of a default by the Company, Subscriber shall have the right, independently or together with other subscribers or an association in which any one or more subscribers are members, to take possession of the Trunk Lines and related Plant facilities within the Development, or which connect same to the Company's Highway 41 Trunk Line, and use same in connection with the implementation of an alternative source for the provision of sewage treatment services to the Development, or any lands which at any time comprised a part of the Development, including the right to assign or dedicate same to Shelby County or any other entity, whereupon any right, interest or control of the Company with respect to said portion of the Trunk Lines and the Plant and any easements in favor of the Company in connection therewith shall terminate.

4.8 Additional Remedies: All rights and remedies of the Company and Subscriber in this Agreement shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

ARTICLE V - GENERAL

5.1 **Term:** This Agreement shall be for a term of 99 years from the date of this Agreement and as long thereafter as Subscriber or any other owner of any portion of the Development requires that the Company provide sewage treatment services to any portion of the real property described in Exhibit A attached hereto.

5.2 **Notices:** All notices permitted or required under this Agreement shall be served personally or mailed by United States certified mail to the following addresses until such time as either party may notify the other in writing of a change in its address:

5.2.1 **The Company:**

Double Oak Water Reclamation, L.L.C.
#1 Shades Creek Parkway
Birmingham, Alabama 35209
Attention: Michael D. Fuller
Telephone: (205) 870-7758

5.2.2 **Subscriber:**

EBSCO Development Company, Inc.
6 Office Park Circle, Suite 310
Birmingham, Alabama 35223
Attention: Elton B. Stephens, Jr.
Telephone: (205) 879-4663

A notice shall be considered as served or received at the moment it is received by the party by mail or personally served, as evidenced by affidavit.

5.3 **Headings:** The headings of the sections and paragraphs of this Agreement are for convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

5.4 **Assignment and Reacquisition of Treatment Capacity:** As provided in Section 3.1, the treatment capacity reserved herein is restricted to the real property described in Exhibit A or additional lands as provided in Section 1.4 above. If Subscriber should sell or transfer any portion or all of such real property, then a portion or all of the treatment capacity reserved herein, and all of Subscriber's rights, duties and obligations under this Agreement in connection therewith, may be assigned by Subscriber to Subscriber's Assignee for use with that portion or all of the real property described in Exhibit A being acquired by Subscriber's Assignee from Subscriber, subject to the terms and conditions hereof, including, but not limited to, the

Wastewater Standards set forth in Exhibit B, and provided that any and all Treatment Charges, including Surcharges, additional charges, collection charges and any other fees and charges that may be due and payable by Subscriber under this Agreement have been paid in full to the Company, and provided, further, that the Assignee assumes all of Subscriber's rights, duties and obligations with respect to such capacity which is assigned by Subscriber to the Assignee. In the event such an assignment by Subscriber to said Assignee takes place prior to the full payment of the Treatment Reservation Fees set forth in Section 3.1, Subscriber hereby guarantees the full and timely payment of such Treatment Reservation Fees by the Assignee, or its heirs, successors or assigns. Upon such assignment by Subscriber to Assignee, Subscriber shall be relieved of all duties, responsibilities and obligations under this Agreement arising subsequent to the date of the assignment except with respect to the Subscriber's guarantee of full payment of the Treatment Reservation Fees provided for in the immediately preceding sentence. Upon any such assignment, the description of the Development shall be deemed revised to delete the portion thereof sold to the assignee, and the capacity reserved hereby shall be deemed reduced by the capacity assigned.

If Subscriber does not use all of the treatment capacity reserved herein and it wishes to dispose of any or all of such excess capacity, it may, at any time, offer to sell to the Company any or all of such excess capacity. Subscriber shall give the Company written notice of its wish to sell such excess capacity and the Company shall have a period of thirty (30) days from the day it receives such notice within which to elect to purchase such excess capacity. If the Company elects to purchase such excess capacity, it shall give Subscriber written notice of its election to so do, and within thirty (30) days thereafter it shall pay to Subscriber the amount equal to the amount of the Treatment Reservation Fee Subscriber paid for the treatment capacity to be reacquired by the Company. If the Company reacquires any or all of Subscriber's treatment capacity under the terms of this paragraph, the following shall apply:

1. Subscriber shall not be entitled to a refund of any fee or charge which it has paid for the treatment capacity being reacquired by the Company.

2. The Company may sell such reacquired treatment capacity to whomever it wishes and Subscriber shall not be entitled to any part of any Treatment Reservation Fee or Treatment Charge received by the Company from such party for the reacquired treatment capacity.

3. Upon the payment by the Company to Subscriber of the amount to be paid for the purchase of such excess capacity, Subscriber shall execute a document, the form and contents of which shall be subject to the reasonable approval of Subscriber and the Company, by which such treatment capacity shall be transferred to the Company. If the Company does not elect to purchase such excess capacity, Subscriber shall not have the right to sell or transfer such excess capacity, or any part thereof, to any other party.

5.5 Applicable Law; Binding Effect: The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Alabama and shall be binding

upon, and shall inure to the benefit of, the parties hereto and their respective heirs, successors and assigns.

5.6 **Entire Agreement:** This instrument and the Exhibits hereto constitute the entire agreement between the parties and merge in this Agreement all statements, representations, and covenants heretofore made, and any other agreements not incorporated herein are void and of no force and effect.

5.7 **Severability:** Any provision of this instrument which may be unenforceable or invalid under any applicable law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof.

5.8 **Miscellaneous:** Whenever the words "Section," "Paragraph" or "Exhibit," whether or not capitalized, are used in this instrument, they shall refer to the designated section or paragraph of this instrument or the designated exhibit attached to this instrument.

5.9 **Attorneys Fees:** The non-prevailing party hereto shall be responsible for the payment of all costs and expenses, including attorneys fees, incurred by the prevailing party in enforcing any provision of this Agreement.

5.10 **Written Statement of Account:** Upon written request by Subscriber, any purchaser from Subscriber, or any holder of a mortgage upon any portion of the Development, the Company shall provide a written statement of the current status of Subscriber's account. The failure of the Company to provide said statement within 30 days after the request shall be deemed confirmation by the Company that the account is current. Any purchaser or mortgagee of Subscriber may rely upon any statement or bill that is issued by the Company, or its representative, as an accurate statement of the status of the account as of the date of such statement or bill.

IN WITNESS WHEREOF, the undersigned Company and Subscriber have caused this instrument to be executed effective on the day and year first above written.

(SIGNATURES ON FOLLOWING PAGE)

THE COMPANY:

DOUBLE OAK WATER RECLAMATION, L.L.C.,
an Alabama limited liability company

By: South Edge, Inc., Its Manager

By: [Signature]
William L. Thornton, III
Its Vice President

SUBSCRIBER:

EBSCO DEVELOPMENT COMPANY, INC., an
Alabama corporation

By: [Signature]
Elton B. Stephens, Jr.
Its President

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William L. Thornton, III, whose name as Vice President of South Edge, Inc., an Alabama corporation, as Manager of DOUBLE OAK WATER RECLAMATION, L.L.C., an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 22 day of June, 1999.

[Signature]
Notary Public
My Commission Expires: _____

MY COMMISSION EXPIRES SEPTEMBER 27, 2001

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Elton B. Stephens, Jr., whose name as President of EBSCO Development Company, Inc., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 22 day of June, 1999.

Della M. Pender

Notary Public

My commission expires: MY COMMISSION EXPIRES

EXHIBIT A

LEGAL DESCRIPTION OF DEVELOPMENT

(Note See Exhibit C for copy of survey bearing surveyor's certification.)

WALTER SCHOEL ENGINEERING COMPANY, INC.

CONSULTING ENGINEERS

1001 22ND STREET SOUTH

BIRMINGHAM, ALABAMA 35205

PHONE 205-328-2252

FAX 205-328-2253

EBS CO - MT. LAUREL DEVELOPMENT

LEGAL DESCRIPTIONS

PARCEL I

A parcel of land situated in the N.E. 1/4, the N.W. 1/4 and the S.W. 1/4 of Section 2, Township 19 South, Range 1 West and in the East 1/2 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows.

Begin at the Northwest corner of Section 2, Township 19 South, Range 1 West and run in an Easterly direction along the North line of said section and along the South line of Lots 178A, 179A, 180A and 188A, A Resurvey of Lots 174 thru 184 and Lots 186 thru 195, Shoal Creek, as recorded in Map Book 9, Page 113 in the Probate Office of Shelby County, Alabama, a distance of 3823.27 feet to a point; thence $129^{\circ}48'11''$ to the right in a Southwesterly direction a distance of 1249.41 feet to a point; thence $7^{\circ}55'04''$ to the left in a Southwesterly direction a distance of 5128.37 feet to a point on the South line of the S.W. 1/4 of the S.W. 1/4 of Section 2, Township 19 South, Range 1 West; thence $58^{\circ}02'24''$ to the right in a Westerly direction along the South line of said 1/4-1/4 section a distance of 370.85 feet to the Southwest corner of Section 2, Township 19 South, Range 1 West; thence $90^{\circ}39'46''$ to the right in a Northerly direction along the West line of said section a distance of 1328.88 feet to the Southeast corner of the North 1/2 of the S.E. 1/4 of Section 3, Township 19 South, Range 1 West; thence $90^{\circ}03'37''$ to the left in a Westerly direction along the South line of the North 1/2 of said 1/4 section a distance of 1482.5 feet, more or less, to the centerline of a branch; thence in a Northwesterly direction along the meandering of the centerline of said branch a distance of 1635 feet, more or less, to its intersection with the West line of the East 1/2 of said Section 3; thence in a Northerly direction along the West line of the East 1/2 of said section a distance of 664.1 feet, more or less, to its point of intersection with the East right-of-way line of Shelby County Highway #41 (Dunnavant Valley Road); thence $1^{\circ}31'39''$ to the right in a Northerly direction along the Easterly right-of-way line of said highway a distance of 435.50 feet to the P.C. (point of curve) of a curve to the right having a radius of 5689.58 feet and a central angle of $8^{\circ}52'52''$; thence in a Northeasterly direction along the Southeasterly right-of-way line of said highway and along the arc of said curve a distance of 881.91 feet to a point; thence $79^{\circ}00'36''$ to the right (angle measured to tangent) in an Easterly direction a distance of 1238.55 feet to a point; thence $89^{\circ}28'21''$ to the left in a Northerly direction a distance of 19.33 feet to a point on the North line of the South 1/2 of the N.E. 1/4 of said Section 3, thence $90^{\circ}00'$ to the right in an Easterly direction along the North line of the South 1/2 of said 1/4 section a distance of 1319.49 feet to the Southwest corner of the N.W. 1/4 of the N.W. 1/4 of Section 2, Township 19 South, Range 1 West; thence $89^{\circ}50'23''$ to the left in a Northerly direction along the West line of said 1/4-1/4 section a distance

of 1328.79 feet to the POINT OF BEGINNING.

Containing 395.2 acres, more or less.

PARCEL II

A parcel of land situated in the S.W. 1/4 of the N.E. 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Northwest corner of the S.W. 1/4 of the N.E. 1/4 of Section 3, Township 19 South, Range 1 West and run in an Easterly direction along the North line of said 1/4-1/4 section a distance of 27.53 feet to a point on the Northwestern right-of-way line of Shelby County Highway #41 (Dunnavant Valley Road), said point being on a curve to the left having a radius of 5769.58 feet and a central angle of $1^{\circ}36'42''$; thence $100^{\circ}37'35''$ to the right (angle measured to tangent) in a Southwesterly direction along the Northwestern right-of-way line of said highway and along the arc of said curve a distance of 163.29 feet to the point of intersection with the West line of said 1/4-1/4 section; thence $171^{\circ}02'21''$ to the right (angle measured to tangent) in a Northerly direction along the West line of said 1/4-1/4 section a distance of 159.90 feet to the POINT OF BEGINNING.

Containing 2139 square feet or 0.049 acres.

Parcel III

A parcel of land situated in the N.E. 1/4 of the N.E. 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Northeast corner of Section 3, Township 19 South, Range 1 West and run in a Southerly direction along the East line of the N.E. 1/4 of the N.E. 1/4 of said section a distance of 1328.79 feet to the Southeast corner of said 1/4-1/4 section; thence $89^{\circ}50'23''$ to the right in a Westerly direction along the South line of said 1/4-1/4 section a distance of 1319.49 feet to a point; thence $89^{\circ}49'49''$ to the right in a Northerly direction a distance of 1327.63 feet to a point on the North line of said 1/4-1/4 section; thence $90^{\circ}07'10''$ to the right in an Easterly direction along the North line of said 1/4-1/4 section a distance of 1327.13 feet to the POINT OF BEGINNING.

Containing 40.35 Acres.

Parcel IV

A parcel of land situated in the N.W. 1/4 of the N.E. 1/4 of Section 3, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast corner of the N.W. 1/4 of the N.E. 1/4 of Section 3, Township 19 South, Range 1 West; thence run Northerly along the East boundary line of said 1/4-1/4 section 252.0 feet; thence turn left an angle of $90^{\circ}21'$ and run Westerly 1184.36 feet, more or less, to a point on the East right-of-way line of Shelby County Road No. 41; thence turn left an angle of $77^{\circ}30'$ and run

Sent by: BRADLEY ARANT

2055218800;

06/17/99 2:39PM; JetFax #543; Page 4/4

06/14 17:41 1999 FROM:

12053282252

TO: 1234567

PAGE: 4

JUN-14-1999 MON 03:51 PM WALTERSCHOEL ENGINEERING

FAX NO. 12053282252

PI 04

Southwesterly along said right-of-way line 132.35 feet; thence turn left an angle of $00^{\circ}52'$ and run Southwesterly along said right-of-way line 125.37 feet, more or less, to a point on the South boundary line of said 1/4-1/4 section; thence turn left an angle of $101^{\circ}38'$ and run Easterly along the South boundary line of said 1/4-1/4 section 1236.02 feet to the POINT OF BEGINNING.

Containing 7.14 acres.

Parcel I	395.2 acres
Parcel II	0.05 acre
Parcel III	40.35 acres
Parcel IV	7.14 acres
Total	442.74 acres

June 14, 1999

desc814

EXHIBIT B

DOMESTIC WASTEWATER STANDARDS

<u>CONSTITUENT</u>	<u>MAXIMUM CONCENTRATION</u> <u>(mg/l)</u>
Solids, total	1,200
, Dissolved, total	850
, Fixed	525
, Volatile	325
, Suspended, total	350
, Fixed	75
, Volatile	275
Settleable solids, (ml/l)	20
Biochemical Oxygen Demand, 5-Day (BOD5) 20°C	300
Total Organic Carbon (TOC)	300
Chemical Oxygen Demand (COD)	1,000
Nitrogen , (total as N)	85
, Organic	35
, Free Ammonia	50
, Nitrates and Nitrites	0
Phosphorous , (total as P)	20
, Organic	5
, Inorganic	15
Chlorides	100
Alkalinity (as CaCO3)	200
Grease	100
pH	(6.0 minimum, 9.0 maximum)

Essentially free (excepting trace amounts) of heavy metals, radioactive materials, toxins, explosives, petroleum products and/or chemicals, their derivatives, and specifically below the levels generally recognized to be toxic to the biological processing of domestic wastewater, or which may create explosive atmospheres or damage or otherwise materially shorten the operating life of the Plant.

* * * * *

EXHIBIT C

LOCATION SKETCH

Attach location sketch, marked "EXHIBIT C" to this page.

L. P. CHESSER
P. O. BOX 68
HUNTSVILLE, ALABAMA 35804

COMPANY'S HIGHWAY 41 TRUNK LINE

CO. HWY 41

ROAD

COMMON AREA

Block 2
2-01

ROAD 'D'

Block 3
3-01

3-02

3-03

3-04

3-05

3-06

3-07

3-12

3-11

3-10

CAP. & BLOCK
(TYPE OF ALL
END LINES)

3-08

ROAD 'A'

ROAD 'B'

SEWAGE PUMP STATION

SUBSCRIBER'S TRUNK LINE
(FORCE MAIN)

EXHIBIT "C"

1" = 100'

EXHIBIT D

DOUBLE OAK WATER RECLAMATION, L.L.C.

PROCEDURES AND GUIDELINES FOR SANITARY SEWER SERVICE LINES

WHEREAS, the proper design, construction and installation of sanitary sewer service lines is necessary to prevent ground water seepage from using up the capacity of the Sanitary Sewer Treatment System; and

WHEREAS, it is in the best interests of DOUBLE OAK WATER RECLAMATION, L.L.C. (the "Company") and the continued development of the area to be served by said Treatment Plant that the following Procedures and Guidelines be followed and enforced.

THEREFORE, the following shall be known as the "Procedures and Guidelines for Sanitary Sewer Service Lines."

I. GENERAL

These Procedures and Guidelines are for the benefit of the Company, the area to be served by the Treatment Plant, and the subscribers. The Procedures and Guidelines shall be enforced by the Company's Engineer, or other designated representative.

II. PROCEDURE FOR APPROVAL OF SANITARY SEWER SERVICE LINES

A. The builder/Subscriber shall submit plans and specifications to the Company's Engineer or other designated representative (herein "Engineer") for review and approval prior to the installation of sanitary sewer service lines.

1. The Engineer shall indicate on such review the locations for connections of sanitary sewer service lines to sewer laterals.

2. The Engineer shall make available a copy of these "Procedures and Guidelines for Sanitary Sewer Service Lines" to each builder/Subscriber.

3. All sewer lines, including force mains, gravity sewers and service lines are subject to pressure testing in accordance with procedures specified by the Company.

B. The builder/Subscriber shall notify the Engineer not less than twenty-four (24) hours prior to implementing test procedures on the sanitary sewer service lines.

1. The builder/Subscriber shall have on the job site all necessary materials and supplies to implement the complete test procedures.

2. The builder/Subscriber shall have installed completely all cleanouts, tees, plugs, temporary riser pipes and other necessary equipment and shall have made the necessary tap to sewer laterals as indicated in Section III hereof. The builder/Subscriber shall provide the necessary water required to fill the test riser pipe (or pipes).

III. MATERIALS AND PROCEDURAL GUIDELINES FOR CONSTRUCTION AND TESTING OF SANITARY SERVICE LINES

"Sanitary Sewer Service Line" means the pipe line or conduit connecting the sanitary sewerage system of the Company to the sanitary waste line from the individual residential and/or commercial establishment. The sanitary waste line (or lines) from the individual residential or commercial establishment usually terminates at a point 5'-0" outside of the building line. The sanitary sewer service line is then installed from that point to connection with the Company's sewer located in street or alley, or in easement or right-of-way owned by the Company.

Sanitary sewer service lines shall be rigid conduits manufactured from ferrous materials, PVC, VCP, or concrete as approved by the Company.

CONSTRUCTION OF SANITARY SEWER SERVICE LINES

In order to implement inspection and testing of sanitary sewer lines, each builder/Subscriber shall notify the Engineer prior to the installation of sanitary sewer service lines.

Conduits shall be laid on smoothly and evenly graded trench bottoms. It is essential that the trench bottoms be well-tamped and evenly graded to provide uniform bearing for the barrel of the pipe so as to fully develop the supporting strength of the pipe.

Conduits shall not be laid on rock. Where rock is encountered, a 4" cushion of approved material shall be provided for bedding the conduit. The cushion shall be comprised of stone screenings or fine dry earth; and the cushion shall be firmly tamped to provide a hard, uniform bearing surface.

The grades on which sanitary sewer service lines are laid shall not be less than those specified hereinbelow.

<u>Pipe Size</u>	<u>Minimum Grade Slope of Conduit Toward Company's Sewer</u>
4"	1/4" per foot
6"	1/8" per foot
8"	1/16" per foot

Backfill for pipe line trenches shall be placed in four (4) layers from bottom of trench to level 12" above top of pipe. Backfill throughout this section of trench depth shall be hand placed and thoroughly compacted by means of pneumatic tampers or other approved method. Material used for backfilling shall be fine dry earth or clay, sand, or stone screenings. Each layer shall be carried up to same level on both sides of pipe so as to avoid unbalanced loading; and each layer shall be equally tamped on both sides of pipe to thoroughly compacted state before the next layer is added. Broken rock mixed in with the backfill material between levels 12" above crown of pipe shall not exceed 4" in any dimension, except that rock shall not be placed within 18" of ground surface. As deemed necessary, the Engineer shall be permitted to inspect the installation of sanitary sewer service lines both before and after backfill.

For the purpose of testing the sanitary sewer service line, there shall be installed in the line a tee, which tee shall be located at or near the point where the sanitary sewer service line intersects the property line. The tee shall be installed with the tee branch extending vertically upward from the run of the sanitary sewer service line. At a point 5'-0" outside the building line, there shall be installed a cleanout.

The Engineer or his designated representative is to oversee and inspect the installation of all sanitary sewer service lines. Where service tees are not provided and where requirements for service connection to sanitary sewer service lines of vitrified clay or reinforced concrete are required, a tapping machine shall be used to "cut" into the sanitary sewer line conduit. A saddle joint shall be properly installed where the service line taps into the sanitary sewer line conduit. Where requirements for sewer service line connections to ductile iron or cast iron pipe occur, a cutting torch shall be used to cut neat openings to receive a tee saddle. Ragged edges shall be smoothed with a grinding stone so that there are no rough edges protruding into the sewer lines. Brazing or welding tee saddles to sewer pipe shall be required to achieve a water tight connection. The expense of pipe tapping and parts and materials to install the service tee shall be borne by the builder/Subscriber.

The sanitary sewer service line may be a force main from a pump station located near the residential or commercial establishment. The engineer or designated representative shall review drawings and specifications of the proposed pressurized sanitary sewer service line, as prepared by the builder/Subscriber and approve those systems that meet the standards of the Company.

Should the builder be allowed to connect into a manhole that has no stub-out provided for service lines the following procedure shall be followed. A coring machine shall be used to cut a neat hole through the manhole wall. Positively no sledge hammer pick, hammer or shock instrument shall be used to open the wall of the manhole. No opening shall be greater than two (2') feet above the invert pipe of the manhole. The sanitary sewer service line pipe shall not project past the interior face of manhole barrel. The socket end of a length of sewer pipe shall not be installed at inlet of manhole. The annular opening between the outside face of the pipe and the opening in the manhole shall be filled and smoothed with a non-shrinking grout to ensure a water tight joint (no infiltration).

These guidelines are intended to be and should be considered by the contractor as a minimum requirement for materials and construction of sanitary sewer service lines. No restriction shall be imposed upon the contractor as to constructing a sanitary sewer service line using superior materials and construction techniques, subject to approval of the Engineer. THE ULTIMATE RESPONSIBILITY, HOWEVER, FOR CONSTRUCTION OF WORKING AND CONFORMING SANITARY SEWER SERVICE LINES RESTS WITH THE CONTRACTOR.

EXHIBIT E

This is to be used as a basis for calculating wastewater volumes to determine treatment capacity as a basis for establishing the Treatment Reservation Fee.

<u>Type of Establishment</u>	<u>Sewage Flow</u> Gallons/Person/Day (Unless otherwise Noted)
<u>Residential</u>	
Hotels, motels and rooming houses, without laundries, per room	50
- with laundries, per room	60
Private dwellings	
Apartments and Multi-Family Units (per unit)	150
Single-Family Residence (per residence)	275
<u>Commercial</u>	
Bus Service areas not including food, per toilet	50
Country clubs not including food (per member)	30
Day workers at offices	20
Drive-In theaters (not including food-per space per day)	10
Factories and plants (exclusive of industrial wastes) per shift	20
Factories and plants (with showers) per shift	30
Laundries, self-service (gallons per washer)	400
Movie Theaters (per auditorium seat - not including food)	5
Office buildings, per employee	20
Restaurants (toilet and kitchen wastes per seat)(not 24 hour service)	50
Restaurants (toilet and kitchen wastes per seat)(24 hour service)	75
Restaurants (banquet rooms per seat)	15
Service stations, per toilet	400
Shopping Malls GPD/gross leasable space (per Sq. Ft. total gross leasable space)	0.1
Stores (per public toilet)	400
Taverns (little food service), per seat	50
Work or construction camps	50
<u>Institutional</u>	
Professional medical related offices (doctors,	

dentists, etc.) (per professional)
 Churches (per auditorium seat - not including food)

500

5

EXHIBIT E (Con't)

<u>Type of Establishment</u>	<u>Sewage Flow</u> Gallons/Person/Day (Unless otherwise Noted)
<u>Institutional (Con't)</u>	
Hospitals (per bed space)	250
Institutions other than hospitals (per bed space)	125
Schools, boarding	75
Schools	15
Schools (with cafeterias)	20
Schools (with cafeteria, gym and showers)	25
<u>Recreational</u>	
Camps, day (no meals served)	10
Camps, resort	125
Camps, (night and day) with limited plumbing	50
Camps, (tourist) trailer or campground with individual sewer hookups (per space)	100
Camps, (tourist) trailer or campground (per space)	50
Fairground and parks, picnic - with bathhouses, showers, and flush toilets	15
Fairground and parks, picnic (toilet wastes only)	5
Swimming pools and bathhouses	10

THE ABOVE FIGURES SHALL APPLY NOTWITHSTANDING ANY USE BY SUBSCRIBER
 OF "LOW FLOW" FIXTURES.

* * * * *

EXHIBIT F
RATE SCHEDULE
FOR
SEWER SERVICE CHARGES

GENERAL:

The rate schedule has been created to provide a fair and equitable distribution of capital and operational expenses for the collection, treatment and disposal of sewage generated by the system Subscribers. System Subscribers are divided into two (2) main categories: residential and commercial. Commercial Subscribers include offices, retail stores, industrial customers, restaurants, motels and all other non-residential contributors. Residential Subscribers have either a standard residence or a garden home.

The basic component of the rate schedule is the Equivalent Dwelling Unit (EDU). One (1) EDU represents one (1) standard residential Subscriber which generates 275 gallons of sewage per day. (Note: Garden homes use less water and are considered to generate 150 gallons of sewage per day.) Charges for office or commercial Subscribers are calculated based on the equivalent number of EDUs.

Example: A Commercial Subscriber determines that the character of the sewage to be generated will meet the domestic wastewater standards and the volume of sewage will average 2750 gallons per day (GPD). The EDUs of this Commercial Subscriber is determined by dividing the estimated sewage flow by the sewage flow of the standard residential Subscriber or $2750/275 = 10$ EDUs.

RESERVATION FEE:

The total reservation fee (e.g. connection or impact fee) shall be \$13.32 per gallon of reserved capacity per day and calculated as shown below:

Residential Subscriber:

Standard residential charge:	$275 \text{ GPD} \times \$13.32 \text{ per gallon} = \3663.00
Garden home charge:	$150 \text{ GPD} \times \$13.32 \text{ per gallon} = \1998.00

Commercial Subscriber: (Example)

Customer:	Office complex
Planned employees:	50
Projected flow:	$50 \times 20 \text{ gals/employee (from Exhibit E)} = 1000 \text{ GPD}$
EDUs:	$1000 \text{ GPD} / 275 \text{ GPD} = 3.64$

Reservation Fee:

$$3.64 \text{ EDUs} \times \$3663.00/\text{EDU} = \$13,333.32$$

TREATMENT CHARGE:

The Treatment Charge is a monthly charge for Subscribers that is broken into two categories: Use Charge and Administration Charge.

The monthly Use Charge is determined by the volume of sewage treated, as follows:

Residential Subscribers:

Standard residential charge:	\$29.50 per month
Garden home charge:	\$29.50 per month

Commercial Subscribers: (Example)

Customer:	Office complex
Planned employees:	50
Projected flow:	$50 \times 20 \text{ gals/employee (from Exhibit E)} = 1000 \text{ GPD}$
EDUs:	$1000 \text{ GPD} / 275 \text{ GPD} = 3.64$
Use Charge:	$3.64 \text{ EDUs} \times \$29.50/\text{mo}/\text{EDU} = \107.38 per month

The Administrative Charge to each Subscriber is \$1.00 per month to cover expenses for billing and recordkeeping.

Thus the total Treatment Charge, exclusive of any Surcharges, for each of the above examples is calculated as follows:

Standard residential Subscriber:	$\$29.50 + \$1.00 = \$30.50 \text{ per month}$
Garden home Subscriber:	$\$29.50 + \$1.00 = \$30.50 \text{ per month}$
Commercial Subscriber:	$\$107.38 + \$1.00 = \$108.38 \text{ per month}$

NOTE 1: Subscriber's payment of the Reservation Fee shall be as follows:

- 40% of Reservation Fee at the execution of the sewer agreement
- 30% of Reservation Fee at the first anniversary date
- 30% of Reservation Fee at the second anniversary date

THE ABOVE NOTWITHSTANDING, THE SUBSCRIBER SHALL BE RESPONSIBLE FOR PAYING ALL UNPAID PORTIONS OF THE RESERVATION FEE PRIOR TO CONNECTION OF THE SUBSCRIBER'S SANITARY SERVICE LINE TO THE COMPANY TRUNK LINE IF CONDITIONS IN SECTION 3.14 ARE SATISFIED.

NOTE 2:

If actual sewage flow generated by commercial Subscribers is found to be greater than the reserved capacity, as stated in the Sewer Agreement, the Subscriber's Reservation Fee will be adjusted. The Reservation Fee will be re-calculated based on actual metered sewage flow or, at the option of the Company, the actual sewage flow shall be considered equal to 85% of the actual water consumed, as shown by the water utility billing during a representative month, as determined by the Company.

NOTE 3:

If the actual biochemical oxygen demand (BOD) or total suspended solids (TSS) of the commercial Subscriber's sewage is found to be greater than the 300 mg/L and 350 mg/l Maximum Concentration, respectively, as set forth in Exhibit B, a Surcharge shall be applied to the commercial Subscriber's bill each month that such excesses are measured in the waste discharged by the commercial Subscriber. A computation of a Surcharge is shown in Exhibit G.

EXHIBIT G

EXAMPLE FLOW SURCHARGE COMPUTATION (SECTION 4.4.2 OF SERVICE AGREEMENT)

XYZ Corporation has reserved 10,000 gallons per day (GPD) capacity. For some period of time after connection to the wastewater system, XYZ's daily flow did not exceed any of the flow limitations set forth in Section 4.4.2. During a thirty-day period between January 20, 1998 and February 19, 1998, however, XYZ's average daily flow was 11,500 GPD, or 1,500 GPD in excess of the 10,000 GPD of XYZ's reserve capacity.

In addition to the regular monthly Treatment Charge, XYZ will be billed a Surcharge for the excess 1,500 GPD discharged for the 30 days. The calculation of the Surcharge is based on two (2) components, Demand Charge and Process Charge, as follows:

1. Demand Charge: \$58.00 per each 1,000 GPD of excess flow
 $(\$58.00/1,000 \text{ GPD}) \times 1,500 \text{ GPD} = \87.00
2. Process Charge: \$1.07 per each 1,000 GPD of excess flow
 $(\$1.07/1,000 \text{ GPD}) \times 1,500 \text{ GPD} \times 30 \text{ days} = \48.15
3. Incremental Treatment Charge: Demand Charge (\$87.00) + Process Charge (\$48.15) = \$135.15
4. Surcharge: Incremental Treatment Charge for excess flow
 $(\$135.15) \times \text{Factor (10)} = \$1,351.50$

If XYZ Corporation continues to have an average flow in excess of 10,000 GPD over the next 30-day period (February 20 - March 22), then the Surcharge would be computed as follows, assuming XYZ's average daily flow for February 20 - March 22 was 11,300 GPD:

1. Demand Charge: \$58.00 per each 1,000 GPD of excess flow
 $(\$58.00/1,000 \text{ GPD}) \times 1,300 \text{ GPD} = \75.40
2. Process Charge: \$1.07 per each 1,000 GPD of excess flow
 $(\$1.07/1,000 \text{ GPD}) \times 1,300 \text{ GPD} \times 30 \text{ days} = \41.73
3. Incremental Treatment Charge: Demand Charge (\$75.40) + Process Charge (\$41.73) = \$117.13
4. Surcharge: Incremental Treatment Charge for excess flow (\$117.13) X Factor (20) = \$2,342.60

NOTE THAT THE FACTOR INCREASED IN MONTH TWO; THE FACTOR WILL CONTINUE TO INCREASE IN EACH SUBSEQUENT THAT THERE IS EXCESS FLOW ACCORDING TO THE FOLLOWING SCHEDULE:

<u>Period of Excess Flow</u>	<u>Factor</u>
1st 30-day period	10
2nd consecutive 30-day period	20
3rd consecutive 30-day period	30
4th consecutive 30-day period	40
And so forth . . .	

NOTE:

The Demand Charge (\$58.00) and the Process Charge (\$1.07) as used above are for this example only. In any computation of a Surcharge, the rates may be increased as provided in Section 4.3.3 of the Service Agreement.

EXAMPLE COMPOSITION SURCHARGE COMPUTATION
(SECTION 4.4.3 OF SERVICE AGREEMENT)

A Composite Sample of XYZ Corporation's sewage has shown that the BODs exceeds the Maximum Concentration set forth in Exhibit B. The results of the Composite Sample for the month of February, 1998 is 400 mg/L (Maximum Concentration is 300 mg/L) when the XYZ's flow was at its reserved sewage capacity of 10,000 GPD. A Surcharge shall apply to this condition and is calculated as follows:

Allowable BODs load from XYZ:

$$2.5 \text{ lbs/1000 gallons} = 2.5 \text{ lbs/1000 gals} \times 10,000 \text{ GPD} \times 28 \text{ days} = 700 \text{ lbs.}$$

Actual BODs load from XYZ:

$$10,000 \text{ GPD} \times (400 \text{ mg/L}/300 \text{ mg/L}) \times 2.5 \text{ lbs/1000} \times 28 \text{ days} = 933.33 \text{ lbs.}$$

Surcharge rate: \$0.70 per lb in excess of the allowable BODs load.

XYZ's Surcharge for the month of February, 1998:

$$(933.33 \text{ lbs minus } 700 \text{ lbs}) \times .70 = \underline{\$163.33}$$

EXHIBIT H

GREASE TRAP REQUIREMENTS

A grease trap(s) is required for all establishments which prepare, cook, treat, process or otherwise handle food, food products or by-products for sale or distribution to the general public on a wholesale, retail or other basis. These requirements for grease trap(s) apply but shall not be limited to restaurants, diners, cafes, delicatessens, grocery outlets, fast food and other similar establishments with either eat-in or carry-out facilities.

In the event that more than one of the above type establishments is located or in the future is to be located on or in one premise and may discharge sewerage into a common sewer service line before connecting to the Company's Trunk Line, additional grease traps may be required.

All grease traps shall furnish a minimum of 48 hours of retention time and will be furnished and installed by the Subscriber at Subscriber's sole expense in Subscriber's Sewer Service Line on Subscriber's side of the Metering Manhole (either existing or future). The number and location of grease traps is subject to the approval of the Company's Engineer.

All grease traps are to be inspected at maximum intervals of six (6) weeks by the Subscriber or individual establishment Subscriber and cleaned out as necessary. The grease is to be disposed of by the Subscriber or individual establishment Subscriber at a site that meets the approval of the Alabama Department of Environmental Management (ADEM). The grease is not to be disposed of in the Company's sewerage collection system. It is the Subscriber's sole responsibility to inspect and clean all grease traps which may be connected to Subscriber's sewer service line in accordance with these requirements or to have individual establishment Subscribers inspect and clean their grease trap(s) in accordance with these requirements.

The Company will have the right to inspect all grease traps at anytime and the Subscriber will have any grease trap cleaned out within seven (7) days of notification to do so by the Company.

EXHIBIT I

PETROLEUM PRODUCT, TOXIC AND OTHER UNACCEPTABLE WASTE REQUIREMENTS

These requirements for removal of the above unacceptable wastes, and method or procedure for preventing entry of unacceptable wastes apply but shall not be limited to automotive or equipment service facilities, photographic processing facilities, laboratories and other similar types of establishments.

A system or device or systems or devices capable of removing essentially all (excepting trace amounts) of petroleum products and their derivatives or other unacceptable waste from Subscriber's sanitary waste line (or lines) will be furnished and installed by Subscriber at Subscriber's sole expense. The above removal system(s) or device(s) will be installed in Subscriber's sanitary Sewer Service Line(s) between the point of discharge of unacceptable wastes and the point of connection to Subscriber's service line outside of the building line. The unacceptable waste removal system(s) or device(s) and the quantity and location of such system(s) or device(s) shall be subject to the approval of the Company's Engineer prior to installation of system(s) or device(s).

All unacceptable waste removed from sewerage by the Subscriber is to be disposed of by Subscriber at Subscriber's sole expense at a site that meets with the approval of the Alabama Department of Environmental Management (ADEM). The unacceptable waste is not to be disposed of in the Company's sewerage collection system.

The Company will have the right to inspect the unacceptable waste removal system(s) or device(s) and if such system(s) or device(s) are found to be in need of cleaning and/or repair, Subscriber will clean and/or repair within seven (7) days notification of the need by the Company.

Heavy metals, toxins and other similar wastes are not to be allowed to enter or discharge into the Company's sewerage collection system; these wastes are to be disposed of in a manner and at a site that meets with the approval of the Alabama Department of Environmental Management (ADEM) and are not to be disposed of in the Company's sewerage collection system. Subscriber's method or procedure for preventing disposal of heavy metals, toxins and other similar wastes into the Company's sewerage collection system shall be subject to the approval of the Company's engineer. The Company shall have the right to inspect Subscriber's method or procedure and premise at any time.

EXHIBIT J

**LEGAL DESCRIPTION OF
THE COMPANY'S REAL PROPERTY**

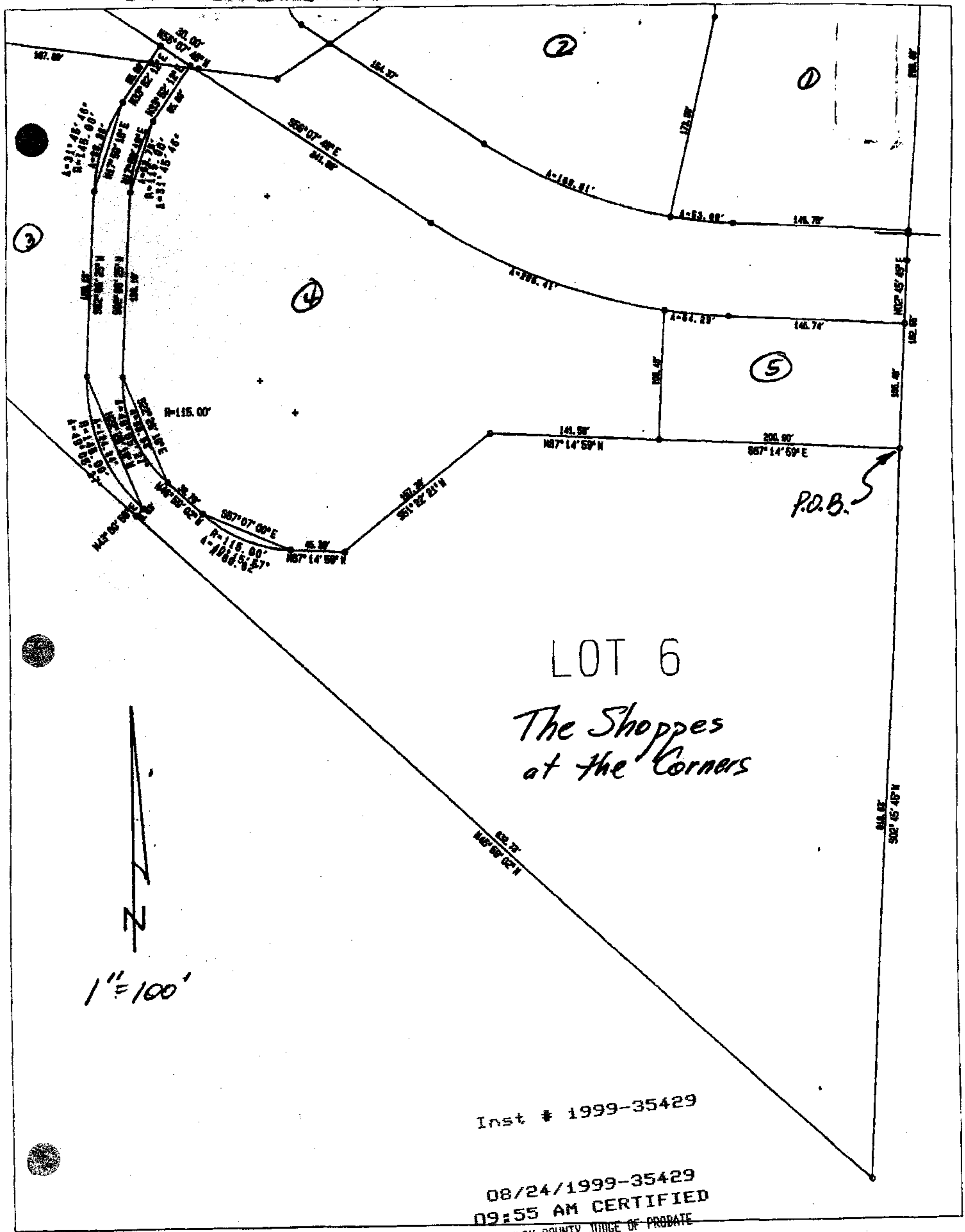
78917

LEGAL DESCRIPTION FOR STP
(LOT 6 - THE SHOPPES)

STATE OF ALABAMA
SHELBY COUNTY

A parcel of land situated in the West 1/2 of the Southwest 1/4 of Section 27, Township 19 South, Range 1 West, being more particularly described as follows:

Commence at the Northeast corner of the Southwest 1/4 of the Southwest 1/4 of said Section 27; thence run in a Southerly direction along the East line of said 1/4-1/4 on a bearing of S 02°45'45" E, a distance of 182.65 feet to a point, said point being POINT OF BEGINNING of the parcel herein described; thence continue along the same bearing of the last described course along the east line of said 1/4-1/4 section, on a bearing of S 02°45'45" E, a distance of 618.83 feet to a point, said point being on the Northeasterly R-O-W line of CSX Railroad; thence turn an angle to the right and run in a Northwesterly direction, on a bearing of N 46°59'02" W, along said R-O-W, a distance of 832.73 feet to a point; thence turn an angle to the right, leaving said R-O-W, run in a Northeasterly direction, on a bearing of N 43°00'58" E, a distance of 8.63 feet to a point, said point being the beginning of a curve to the right; thence turn an angle to the left and run along the arc of said curve, having a central angle of 49°05'27" and a radius of 145.00 feet on a chord bearing of N 22°26'18" W, an arc distance of 124.24 feet to a point; thence continue tangent to last described curve in a Northerly direction, on a bearing of N 02°06'25" E a distance of 156.16 feet to a point, said point being the beginning of a curve to the right; thence continue along the arc of said curve, having a central angle of 31°45'46" and a radius of 145.00 feet, on a chord bearing of N 17°59'18" E, an arc distance of 80.38 feet to a point; thence continue tangent to last described curve in a Northeasterly direction, on a bearing of N 33°52'12" E, a distance of 55.00 feet to a point; thence turn an angle to the right and run in a Southeasterly direction, on a bearing of S 56°07'48" E, a distance of 30.00 feet to a point; thence turn an angle to the right and run in a Southwesterly direction, on a bearing of S 33°52'12" W, a distance of 55.00 feet to a point, said point being the beginning of a curve to the left; thence run along the arc of said curve, having a central angle of 31°45'46" and a radius of 115.00 feet, on a chord bearing of S 17°59'18" W, an arc distance of 63.75 feet to a point; thence run tangent to last described course in a Southerly direction, on a bearing of S 02°06'25" W, a distance of 156.16 feet to a point, said point being the beginning of a curve to the left; thence continue along the arc of said curve, having a central angle of 49°05'27" and a radius of 115.00 feet, on a chord bearing of S 22°26'18" E, an arc distance of 98.53 feet to a point; thence continue tangent to last described curve in a Southeasterly direction, on a bearing of S 46°59'02" E, a distance of 39.70 feet to a point, said point being the beginning of a curve to the left; thence run along the arc of said curve, having a central angle of 40°15'57" and a radius of 115.00 feet, on a chord bearing of S 67°07'00" E, an arc distance of 80.82 feet to a point; thence continue tangent to last described curve, on a bearing of S 87°14'59" E, a distance of 45.39 feet to a point; thence turn an angle to the left and run in a Northeasterly direction, on a bearing of N 51°22'21" E, a distance of 157.39 feet to a point; thence turn an angle to the right and run in an Easterly direction, on a bearing of S 87°14'59" E, a distance of 342.48 feet to the POINT OF BEGINNING; said parcel containing 4.88 acres, more or less.



Inst # 1999-35429

08/24/1999-35429
09:55 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
050 MMS 131.00